

NEW JERSEY EARLY INTERVENTION SYSTEM FORMAL DISPUTE RESOLUTION REQUEST GUIDANCE

The Department of Health (NJDOH) is committed to maximizing family involvement at each step of the New Jersey Early Intervention System (NJEIS). As part of ensuring the parents' involvement in decision-making and maintaining the partnerships critical to the success of the program, NJDOH encourages and recommends that all parties work together using informal means to resolve disagreements that may arise. A Procedural Safeguards Specialist is available through the Procedural Safeguards Office to advise parents of their rights under the Early Intervention System and help them understand the options available to them when disputes arise.

The NJEIS recommends that parents work with the service coordination units, the Regional Early Intervention Collaboratives (REICs), provider agencies, and the procedural safeguards specialist at the Procedural Safeguards Office (PSO) to address concerns in an attempt to avoid formal procedures whenever possible. If a family decides to request formal dispute resolution, or if the informal process does not adequately address the concerns of the parties involved, NJDOH offers several options for formal resolution of disputes including mediation, impartial due process hearings, and administrative complaints.

DESCRIPTION OF OPTIONS

Outlined below is a brief overview of the formal options available for resolving disagreements. A complete description of each of these procedures is contained in NJDOH policies and procedures available at NJAC 8:17 and in the NJEIS Family Rights. An optional dispute resolution request form is available to facilitate the request of any of the dispute resolution options.

MEDIATION

Any parent or, with the consent of the parent, the parent's representative, the service coordinator, or a service provider, or the REIC may request mediation to resolve disagreements regarding identification, evaluation and assessment, eligibility determination, placement, or the provision of appropriate early intervention services for an individual child or family. The mediation process is voluntary on the part of the parent, non-adversarial, and a means to resolve disagreements to the mutual satisfaction of all parties. A parent may request mediation in addition to filing a request for an impartial hearing or a request for resolution of a complaint. Mediation meetings must occur within 10 calendar days of the request. The entire mediation process, including issuance of a written mediation agreement which is binding on both parties and enforceable in State or Federal court, shall be completed within 30 calendar days of the receipt of the request for mediation unless the mediation was requested as a part of a due process hearing or complaint investigation. In that case, the mediation agreement must be completed within 15 calendar days to ensure adequate time for completion of the due process proceeding or complaint investigation. Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent hearing or court proceeding.

IMPARTIAL DUE PROCESS HEARING

Any parent or, with the consent of the parent, the parent's representative may request an impartial hearing before an impartial Administrative Law Judge to resolve disagreements regarding identification, evaluation and assessment, eligibility determination, placement, or the provision of appropriate early intervention services for an individual child and family. A parent may request an impartial hearing in addition to requesting mediation or filing a complaint. Upon receipt of a signed due process hearing request, the PSO reviews the NJEIS Family Rights with the parent. During the pendency of the proceeding, services not in dispute continue unless the IFSP team decides otherwise. The Administrative Office of Law issues a written decision at no cost to the parent within 30 calendar days of the receipt of the hearing request unless either party requests an extension. Either party may appeal the decision in State or Federal court. The lead agency is not liable for any attorney fees incurred.

ADMINISTRATIVE COMPLAINTS

Any parent or, with the consent of the parent, the parent's representative, other individual, or organization, including an organization or individual from another state, may file a complaint with the Procedural Safeguards Office alleging that an early intervention program provider agency, practitioner, service coordinator, REIC, the NJDOH, or any other state agency involved in the early intervention system is violating or has violated a requirement of federal or state early intervention law or regulation. A parent may file a request for a due process hearing at the same time they file the complaint. The complaint

must allege a violation that occurred not more than one year prior to the date the complaint is received. The complaint must be resolved within 60 days of its receipt unless the parties agree to extend the time to engage in mediation or exceptional circumstances exist. A copy of the complaint will be shared with the parties to the complaint.

The PSO issues a written decision that includes findings of fact, conclusions, reasons for the decision, any necessary corrective actions, and remedies for any denial of appropriate services.

If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not part of the due process action must be resolved within the 60-calendar day timeline using the complaint procedures.

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