

New Jersey's Early Intervention System

Frequently Asked Questions

This advocacy guide is intended to assist and inform families of infants and toddlers interested in obtaining services from New Jersey's early intervention system and other persons and organizations seeking to assist families.

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**Advocating and advancing
the human, civil and legal rights
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Disability Rights New Jersey

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What is early intervention?

Early intervention is a service program included under the federal Individuals with Disabilities Education Act Part C (IDEA) legislation. Services are available to families of children with developmental delays of two standard deviations below the norm in one area of development or one standard deviation below the norm in two or more areas of development.

Who are the major players in the early intervention system?

The **New Jersey Department of Health** is the lead agency for the early intervention system and is responsible for ensuring that the program is in compliance with all state and federal regulations. The **Regional Early Intervention Collaboratives** contract with the lead agency to provide informal dispute resolution, technical assistance and training, and family support. **Early intervention program providers** provide direct services to families in natural environments. The **service coordinator** is responsible for arranging evaluations and ensuring that services are provided in a timely manner. The service coordinator is also the keeper of the early intervention records and the only individual who can make changes to the record.

What services are families entitled to?

Families eligible for early intervention are entitled to services to assist families in increasing their capacity to meet the developmental needs of their children. The program is family centered, rather than just child centered; therefore, when possible the primary caregiver is involved in the delivery of services.

How do I access the early intervention system?

You can access the early intervention system by contacting the Statewide Referral Number 1-888-653-4463, or by contacting the Special Child Health Services Case Management Unit in your county of residence.

Must I consent to early intervention referral and evaluations?

In New Jersey, consent is required for both referral and evaluations. The only exception is substantiated cases of abuse and neglect referred by the Division of Child Protection and Permanency. However, early intervention services are completely voluntary. A parent is not required to participate in the system.

Consent is not necessarily required from a biological parent. Parent is defined broadly in the IDEA and includes adoptive parents, legal guardians, a person standing in the place of a parent, and at times a foster parent. If none of these individuals are available, then a surrogate parent must be appointed.

What type of evaluation is required?

The Individuals with Disabilities Education Act (IDEA) requires a comprehensive, multidisciplinary (at least two professionals with different expertise) evaluation that determines the status of the child in each developmental area: physical, cognitive, communication, social/emotional, and adaptive.

What is an Individualized Family Service Plan (IFSP)?

An IFSP is the plan that describes the desired outcomes for the family and child to obtain along with the needed services to obtain those outcomes. The plan includes an initiation date for services and the anticipated length and duration of services.

Who are the members of the team that makes early intervention decisions?

The service coordinator, the service provider and family members are members of the early intervention team that makes decisions regarding early intervention services. All members of the team must be involved in each decision.

Must I be informed of decisions made by the early intervention system regarding services to my family and decisions made regarding specific requests made by my family?

You are entitled to receive ten days' prior written notice of all actions and refusals to act by the early intervention system, along with a reason for the action or refusal to act. This includes any changes to services provided to the family.

What kinds of services are available under the early intervention system?

IFSP services may include:

- Assistive technology
- Audiology
- Family training / counseling

- Health services
- Medical services
- Nursing services
- Nutrition services
- Occupational therapy / physical therapy
- Psychological services
- Service coordination
- Social work services
- Special instruction
- Speech-language pathology
- Transportation and related costs
- Vision services

This is not meant to be an exhaustive list of services available under the early intervention system.

Can I agree to only partial services?

Yes - a family can accept or reject any service offered by early intervention. The rejection is not absolute. A family can later decide to accept services that were initially rejected. In addition, parents are not required to accept the entire IFSP. Some services may be accepted and others rejected.

When must the early intervention system communicate with me in my native language?

At all phases of the process, the early intervention system is required to communicate in a family's native language unless it is not feasible to do so. If necessary, the system

must provide a translator to ensure compliance with this requirement. However, the early intervention system is not required to provide services in the family's native language.

Will my family's information remain confidential?

Yes - parental written consent is necessary for the release of any records or any information that is personally identifiable. There are limited exceptions provided in the Family Educational Rights and Privacy Act.

Do I have the right to examine my family's records?

Yes - upon request, parents have the right to review their early intervention file. The request should be directed to the service coordinator, who is the keeper of the early intervention file.

What timeframes exist to ensure that the early intervention process is moving forward appropriately?

Within 45 days of referral to the early intervention system, evaluations must be completed, eligibility determined and the IFSP developed, if appropriate. There is no specific federal timeframe for initiation of services. New Jersey interprets the timeframe to be no longer than 30 days from the development of the IFSP.

May the State charge for early intervention services?

Yes - the State may charge for the actual provision of services. New Jersey enacted a sliding fee scale for services beginning at 300% of the federal poverty level. In 2018, the federal poverty level was \$24,600 for a family of four, which means that in New Jersey families of four with

an income above \$73,800 are charged a fee based upon a sliding fee scale. Those families below 300% of the federal poverty level receive services without cost. The guidelines are updated annually.

What aspects of the program are available without cost to families?

Service coordination, evaluations and assessments, and the development and review of the IFSP are available to all families at no cost.

What are my rights with respect to transition?

The service coordinator facilitates the development of a transition plan to preschool services, if appropriate. The IFSP includes the steps to be taken to support the transition of the child upon reaching age 3 to preschool services or other available services. The transition planning conference and transition to preschool conference are scheduled and held to discuss all options and necessary procedures.

The IDEA requires notification to local school districts of all potentially eligible pre-school students with disabilities. The notification from the early intervention system is treated as a referral which starts the local school district's legal timeframes to determine whether to evaluate a child and determine eligibility for pre-school services. Parents may opt-out of the early intervention notification, but the system must notify families of their choice.

If a dispute arises during the early intervention process, how can disputes be resolved?

Disputes can be resolved through informal and formal mechanisms including mediation, impartial hearings, and a request for administrative complaint.

What is mediation?

Mediation is an opportunity for families and the early intervention system to resolve disputes through discussions that take place with an impartial individual. The parties discuss areas of agreement and disagreement in an attempt to reach a compromise. If a compromise is reached, the agreement is written down and signed by all parties. It is enforceable in a hearing. Everything discussed in the mediation is confidential and may not be used against the party later. Mediation must be completed within thirty days.

What is an impartial hearing?

The impartial hearing, also known as a due process hearing, is a forum for families to resolve disputes in a formal setting at the Office of Administrative Law. The hearing is a trial at which evidence is presented and witnesses examined. The OAL judge renders a written decision within 30 days of the request for a hearing. Families may appeal the decision to state or federal court.

What is an administrative complaint?

An administrative complaint is an opportunity for a family to allege a violation is occurring or occurred and places the investigation burden on the lead agency's Office of

Procedural Safeguards. Complaints must be resolved within 60 calendar days.

If informal dispute resolution is offered must I accept this?

No - families are not required to proceed through informal dispute resolution prior to initiating any of the three formal mechanisms. Informal dispute resolution may allow for issues to be resolved more quickly; however, there are no procedural protections associated with this method of dispute resolution and it is not mentioned in the federal law.

What are the relevant laws?

The early intervention system is authorized under the federal Individuals with Disabilities Education Act Part C (IDEA).

State regulations can be found at N.J.A.C. 8:17 or on the New Jersey Department of Health and Senior Services website <https://www.state.nj.us/health/fhs/eis/index.shtml>.

How do I contact the Procedural Safeguards Office?

You can contact the Procedural Safeguards Office by calling or writing:

Procedural Safeguards Office
Department of Health and Senior Services
P.O. Box 364
Trenton, New Jersey 08625-0364
1-877-258-6585

How can I obtain the assistance of advocacy services if needed?

You can seek advocacy assistance from the following organizations:

Disability Rights New Jersey
210 S. Broad Street, 3rd Floor
Trenton, New Jersey 08608
1-800-922-7233 (in NJ only) or 609-292-9742
1-609-633-7106 (TTY)
www.drnj.org

Statewide Parent Advocacy Network (SPAN)
35 Halsey Street, 4th Floor
Newark, New Jersey 07202
1-800-654-SPAN (in NJ only)
1-973-642-8100
www.spannj.org

Education Law Center
60 Park Place, Suite 300
Newark, New Jersey 07102
1-973-624-1815
1-973-624-4618 (TTY)
www.edlawcenter.org

Rutgers School of Law
Special Education Clinic
123 Washington Street
Newark, New Jersey 07102
1-973-353-5576

What are the procedural safeguards that exist under the law?

The IDEA contains the following procedural safeguards for families in the early intervention system.

- **Prior Written Notice** requires the system to provide families with advance notice of decisions and the reasons for those decisions.
- **Use of Primary Language or Mode of Communication** requires the early intervention system to communicate with families in their primary language whenever feasible to do so.
- **Written Consent** requires that the early intervention system receive signed parental consent before moving forward with evaluations or providing services.
- **Confidentiality and Release of Records** prohibits the early intervention system from releasing information or records regarding early intervention without prior written consent from the parent.
- **Examination of Records by Families** allows families to access their early intervention records at anytime.
- **Equal Partners in Decision-Making** indicates that families are equal members of the IFSP team and share in the decision-making process along with the early intervention system.
- **Accept or Decline Services without Jeopardy** allows families to reject some services and accept other services. In addition, it allows families to add services at a later date, if necessary.
- **Impartial Dispute Resolution System** creates the system of administrative complaint, mediation and impartial hearings to resolve any disputes between

families and the system that may arise during the early intervention process.

Disability Rights New Jersey (DRNJ), the State's federally funded designated protection and advocacy system for people with disabilities, is a statewide non-profit organization that advocates and advances the human, civil and legal rights of persons with disabilities. DRNJ's mission includes the empowerment of people with disabilities through information to assist them in self-advocacy.