



RESOLVING DISPUTES IN THE EARLY INTERVENTION SYSTEM (For Children Below Age Three)

How and When to File a Complaint, Request a Hearing, or Ask for Mediation

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

INFORMAL DISPUTE RESOLUTION

A parent, advocate, or other individual may request a meeting at any time with the administrator of the local County Office of Mental Health and Mental Retardation to try to resolve issues relating to the provision of Early Intervention services to an infant or toddler with a disability and their family.

You can request an informal meeting by phone or in writing or by asking your Service Coordinator to schedule the meeting for you. The meeting must be scheduled within seven (7) *calendar* days of your request for the meeting. Requesting and attending this meeting does not prevent you from filing a Complaint alleging a legal violation, or requesting a due process hearing. You can also skip this stage and use one of the other procedures explained below. If, however, you attend an informal conflict resolution meeting and an agreement is reached, the child's Individual Family Service Plan should be revised to reflect the agreements reached at that meeting so that these commitments will be legally enforceable.

WHO CAN FILE A "COMPLAINT"?

A parent, advocate, or any other individual or organization may file a Complaint with the state, through the Regional Office of Mental Retardation, that the legal rights of an infant or toddler with a developmental delay have been violated. The Complaint can relate to a single child or to a group of children. The Complaint can be filed against a County Office of Mental Health/Mental Retardation (MH/MR), a private Early Intervention (EI) provider, or the state.

WHEN SHOULD A COMPLAINT BE FILED?

Whenever you believe that the child's legal rights are being violated, and your efforts to solve the problem with the Service Coordinator, the County MH/MR Administrator, and the provider are unsuccessful, you can file a Complaint.

For example, if the County has not evaluated the child and developed an Individualized Family Service Plan (IFSP) for an eligible child within *45 calendar days*, or if the County has not provided all of the services on the IFSP, you can file a Complaint. Complaints can also include legal violations that occurred up to a year earlier or longer if the violation is continuing for that child or other children. If the request is for reimbursement for services that you had to buy because the County or a provider illegally did not provide them, or for makeup (compensatory) services, the request can go back three years.

HOW DO I "FILE" A COMPLAINT?

You can simply call the appropriate Regional Office and ask to speak to the Regional Program Manager, whose staff can also help you put the Complaint in writing. The Regional Office of Mental Retardation staff can be contacted at these numbers:

Central Region: (717) 772-6507

Northeast Region: (570) 963-4749

Southeast Region: (215) 560-2242

Western Region: (412) 565-5144

You can also send a letter or use a form (see Attachment I) to file your Complaint with the Regional Office. Your letter should provide background information about you and your child and describe the problem you are having. Your letter should also tell the Regional Office what you think will fix the problem. You can ask for, among other things, financial reimbursement or additional (compensatory) Early Intervention services. Keep a copy of your Complaint for your records.

WHERE SHOULD THE COMPLAINT BE SENT?

You should send your written Complaint, addressed to the Regional Program Manager, to your local office of the Pennsylvania Office of Mental Retardation (OMR), often called the Regional Office of Mental Retardation. Attached is a list of the addresses for the Regional Offices and the counties they serve (Attachment II).

WHAT HAPPENS AFTER THE COMPLAINT HAS BEEN FILED?

The Regional Office has 60 *calendar* days to investigate your Complaint and issue a written decision. An investigation must include a personal interview with you and with local EI officials. You can also submit additional evidence, in writing or otherwise. The Regional Office can also convene a meeting of the parties. Sometimes the Regional Office will visit the site of the Early Intervention services as part of the investigation.

If the Regional Office finds that the law has been violated, it must make sure there is a plan in place within 30 days after the investigation to correct the problem. Remedies can be an award of monetary reimbursement or extra services to make up for past denials.

WHEN DOES IT MAKE SENSE TO GO TO MEDIATION?

Families may use mediation any time there is a disagreement about EI

services. Mediation is an informal “no cost” option that often resolves a problem faster than the more formal Complaint and hearing procedures.

WHAT IS MEDIATION?

In mediation, both sides agree to attend a meeting with an independent person (“mediator”) who is trained to help both sides solve the disagreement. Mediators do not make decisions, but rather work to develop a joint agreement that resolves the dispute. Mediation must be scheduled within 10 calendar days of the parent’s request and held at a location convenient to the parties. If an agreement is reached through the mediation process, a written mediation agreement must be developed. Make sure that the commitments reached in the agreement are included in the child’s Individual Family Service Plan (IFSP) - only then will the agreement be enforceable. Mediation sessions are confidential; neither party can use anything that is said at a mediation session in a later hearing or court proceeding.

HOW DO I REQUEST MEDIATION?

You can request mediation or learn more about mediation by calling the Office of Dispute Resolution (ODR): 800-992-4334 or TTY 800-654-5984.

WHEN DO I REQUEST A HEARING?

Families have the right to request a due process hearing before an impartial Hearing Officer anytime there is a disagreement about Early Intervention services. Hearings are designed to resolve questions such as: what types of services your child needs, what amount of services and therapies should be provided, or whether your child is eligible to receive EI services.

HOW DO I REQUEST A DUE PROCESS HEARING?

Families can request a hearing by asking their Service Coordinator to

arrange one or by calling the Office of Dispute Resolution (ODR) at 800-222-3353 or TTY at 800-654-5984. Someone from ODR will work out scheduling and try to answer any questions you may have about the hearing process. ODR will also help you get a "no cost" independent evaluation to help you prepare for the hearing, if needed.

WHAT HAPPENS NEXT?

A hearing must be convened and a decision reached within 30 *calendar* days. Any decision made at the hearing can be appealed to court. The Hearing Officer can order an independent evaluation at no cost to the family if the family disagrees with the agency's evaluation, and the Hearing Officer determines that it is needed to help resolve the dispute.

WHAT HAPPENS TO MY CHILD'S SERVICE DURING THE HEARING PROCESS?

Once you request a hearing, your child has the right to continue to receive all of the Early Intervention services set forth in the last agreed-upon IFSP and these services stay in place until there is a final decision of a Hearing Officer, or ultimately, a court on the issues you brought to the hearing. If you or the County would like to change any of the services during the hearing process, you can do so by written agreement of both sides. Any changes should be incorporated into your child's IFSP.

WHAT HAPPENS AT A HEARING?

The hearing must be held at a time and place that is reasonably convenient to the parent. A parent has the right to be represented by an attorney and to bring other people with special knowledge or training about Early Intervention to advise her. The parent (and the Early Intervention agency) can present "evidence" (for example, testimony from parents or experts or progress or medical reports). Remember, you must share with the other side (and they with you) any evidence that you want to present at least 5 *calendar* days before the hearing; otherwise

the Hearing Officer may not let you present it at the hearing. You can also ask questions of the other side's witnesses (called "cross-examination"). You are also entitled to a written or electronic transcript of the hearing.

The Hearing Officer must send you and the agency a written decision with findings of facts and reasoning no later than 30 calendar days after receiving your request for a hearing. Either party can file an appeal from the Hearing Officer's decision to a court. It is important to understand that - unlike the situation with preschoolers and school-aged students - even if the parent is successful in persuading a Hearing Officer or a judge that the family is right, the family still cannot force the Early Intervention agency to reimburse them for their attorneys' fees. But the family may be able to get back money they paid to provide services the agency should have provided, and may be entitled to extra or "compensatory" education services.

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ATTACHMENT I

REGIONAL MENTAL HEALTH/MENTAL RETARDATION OFFICES

DPW Northeast Regional

Office of Mental Retardation
100 Lackawanna Ave., Room 315
Scranton, PA 18503
(570) 963-4749

DPW Central Regional

Office of Mental Retardation
Harrisburg State Hospital
Willow Oak Bldg., Room 430
Harrisburg, PA 17105
(717)-772-6507

DPW Southeast Region

Office of Mental Retardation
306 State Office Building
1400 Spring Garden Street
Philadelphia, PA 19130-4064
(215) 560-2242

DPW Western Region

Office of Mental Retardation
State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222
(412) 565-5144

County

Region

Adams	Central
Allegheny	Western
Armstrong	Western
Beaver	Western
Bedford	Central
Berks	Northeast
Blair	Central
Bradford	Northeast
Bucks	Southeast
Butler	Western
Cambria	Central
Cameron	Western
Carbon	Northeast
Centre	Central
Chester	Southeast
Clarion	Western
Clearfield	Western
Clinton	Central
Columbia	Central
Crawford	Western
Cumberland	Central
Dauphin	Central
Delaware	Southeast
Elk	Western
Erie	Western
Fayette	Western
Forest	Western
Franklin	Central
Fulton	Central
Huntingdon	Central
Indiana	Western
Jefferson	Western
Juniata	Central

County

Region

Lackawanna	Northeast
Lancaster	Central
Lawrence	Western
Lebanon	Central
Lehigh	Northeast
Luzerne	Northeast
Lycoming	Central
McKean	Western
Mercer	Western
Mifflin	Central
Monroe	Northeast
Montgomery	Southeast
Montour	Central
Northampton	Northeast
Northumberland	Central
Perry	Central
Philadelphia	Southeast
Pike	Northeast
Potter	Western
Schuylkill	Northeast
Snyder	Central
Somerset	Central
Sullivan	Northeast
Susquehanna	Northeast
Tioga	Northeast
Union	Central
Venango	Western
Warren	Western
Washington	Western
Wayne	Northeast
Westmoreland	Western
Wyoming	Central
York	Central

ATTACHMENT II

COMPLAINT REGISTRY FORM

(Prepare four copies: one copy to complainant; one copy to county MH/MR; one copy to individual/organization being charged with violation; one copy to Office of Mental Retardation Regional Office).

DATE: _____

Name and address of Individual(s)/Organization/Agency about whom complaint is being filed:

COMPLAINT/NON-COMPLIANCE: List the facts upon which the alleged complaint is based. (Use additional pages, if necessary.)

NAME OF COMPLAINANT (S):

Address
and
Telephone #

Signature(s) of complainant(s) _____

Witness: _____

OFFICE OF MENTAL RETARDATION USE ONLY

Regional Office Location: _____

Date of Complaint: _____

Date of Resolution: _____

Disposition: _____

County MH/MR Program Name: _____

Date forwarded to Central Office: _____

Date referred to U.S. Secretary of Education: _____

Staff Signature: _____

Title: _____