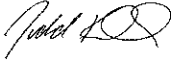




ANNOUNCEMENT: EI-11 #01
OFFICE OF CHILD DEVELOPMENT AND EARLY LEARNING
BUREAU OF EARLY INTERVENTION SERVICES

ISSUE DATE: June 1, 2011
EFFECTIVE DATE: June 1, 2011
EXPIRATION DATE: Announcement applicable until further notice

SUBJECT:	IDEA Early Intervention Complaint Procedures
TO:	Early Intervention Leadership
FROM:	Todd M. Klunk  Acting Deputy Secretary, Office of Child Development and Early Learning

PURPOSE:

The purpose of this Announcement is to communicate the Office of Child Development and Early Learning (OCDEL), Bureau of Early Intervention Services (BEIS) procedures for filing, investigating and resolving complaints within the Infant/Toddler and Preschool Early Intervention (EI) system related to any alleged violation of requirements under Parts B (Section 619) and C of the Individuals with Disabilities Education Act (IDEA), Pennsylvania Act 212-1990 and other applicable state or federal legislation or regulations.

BACKGROUND:

Part B and Part C of the Individuals with Disabilities Education Act (IDEA) under 34 CFR §300.151-153 and 34 CFR §303.510-512 respectively requires states to adopt complaint procedures for resolving any complaint that is in violation of federal or state requirements. The procedures in this announcement have been updated in response to the Office of Special Education Programs (OSEP) recent verification visit in Pennsylvania to ensure the complaint resolution process utilized to investigate complaints related to violations of federal and state requirements conducted through BEIS meet the requirements of the statute.

DISCUSSION:

Parents with children receiving EI services must be informed of their rights and procedural safeguards throughout the time their child receives EI services. Parents should receive information on procedural safeguards upon initial contact with the Early Intervention program; upon parent's request for evaluation; whenever there is a change to Early Intervention services and/or revisions to the IFSP/IEP; and any time a parent requests a copy.

Additionally, OCDEL has developed a fact sheet entitled *Problem Solving in Early Intervention* which provides information on conflict resolution at the local Infant/Toddler EI or Preschool EI level, IFSP/IEP facilitation, the EI Complaint Resolution Process (form attached), mediation, and due

process defined in this announcement. The choice of any one option outlined on the fact sheet neither precludes the parent from choosing any other option, nor does the parent have to exhaust any one option in order to utilize another. The fact sheet should be used in conjunction with the presentation of procedural safeguards to explain the options to families. The fact sheet can be found at http://www.education.state.pa.us/portal/server.pt/community/early_intervention/8710.

An Early Intervention Complaint Resolution Process (EICRP) has been developed and is available to assist parents in resolving concerns at the local level before the concern elevates to the written complaint level. (Attachment #1)

DEFINITIONS:

1. COMPLAINT

A complaint is a written signed report stating the issues or allegations filed by an individual, parent or organization indicating a deficiency in the fulfillment of the requirements or a violation of the requirements by an Infant/Toddler or Preschool EI program that receives funding or payment under Parts B or C of IDEA, Pennsylvania Act 212-1990 or other pertinent state or federal legislation. A few examples of complaints are:

- a. Timelines not met;
- b. Service on an IFSP/IEP not provided;
- c. Denial of appropriate service(s);
- d. Failure to implement a due process hearing decision.

An alleged violation must have occurred within one year of the date the complaint is received by BEIS. For Infant/Toddler and Preschool EI programs, a longer period may be considered reasonable if the complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by BEIS.

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, BEIS will 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 to BEIS that is not part of the due process action must be resolved within the 60 calendar day timeline using the complaint process outlined within this Announcement.

Any complaint against OCDEL involving its failure to establish or implement policies as required by Parts B & C of IDEA or Pennsylvania Act 212-1990 shall be directed to the Secretary of the Department of Education for Preschool EI or the Secretary of the Department of Public Welfare for Infant/Toddler EI.

Anonymous reports will not be accepted.

2. COMPLAINANT

A complainant is an individual, parent or organization who files a complaint with OCDEL.

3. RESPONDENT

A respondent is the party against which the complaint is filed, i.e., any Infant/Toddler or Preschool EI program.

COMPLAINT SYSTEM PROCEDURES:

1. The EI Complaint Registry Form (Attachment #2) can be used by individuals, parents or organizations to file a complaint with OCDEL against an Infant/Toddler or Preschool EI Program. The form can be obtained from OCDEL at 717-346-9320; by emailing the request to ra-ocdintervention@state.pa.us or on-line at http://www.education.state.pa.us/portal/server.pt/community/early_intervention/8710/forms/522291.
Complainants are not required to use the EI Complaint Registry Form to file a complaint with OCDEL. Complaints received that are written on other forms of documentations shall be accepted and acted upon as appropriate.
2. The complaint may be mailed, emailed or faxed to:
Departments of Public Welfare and Education
Office of Child Development and Early Learning
Bureau of Early Intervention Services
333 Market Street, 6th Floor
Harrisburg, PA 17126-0333
Email: ra-ocdintervention@state.pa.us
Fax: 717-346-9330
3. All complaints received by BEIS staff via email, through the complaint registry form or any other forms of written documentation are date stamped and entered into a complaint log upon receipt by BEIS staff to ensure the investigation into the complaint will begin and is completed within the 60 day timeframe. The information is then forwarded to the EI Advisor for that area who will then contact the complainant.
4. BEIS staff will offer assistance to the complainant, whenever necessary, using the complainant's native language and/or mode of communication, with the writing/transmission of statements outlining the details of each complaint. The statement will include sufficient detailed information concerning the alleged violations of regulatory requirements or the provision of services.
5. The complainant must forward a signed copy of the complaint to the Infant/Toddler or Preschool EI program serving the child at the same time the complainant files the complaint with BEIS.
6. Within 60 calendar days after a complaint is filed, BEIS will issue a written decision to the complainant and the respondent that addresses each allegation in the complaint. This written decision will include:
 - a. Findings of fact

- b. Conclusions that may include corrective action necessary to address the needs of the child and, if appropriate, future provision of EI services.
 - c. The reasons for OCDEL's decision.
7. An extension of the 60 calendar day time line may be granted if:
 - a. Exceptional circumstances exist with respect to the review and investigation of a particular complaint; or
 - b. The parent and Infant/Toddler or Preschool EI program involved voluntarily agree to extend the time to resolve the matter through mediation or alternative means of dispute resolution. All parties will be informed in writing of the extension, the circumstances for the extension and the new time lines for resolution of the complaint.
 8. If an EI Advisor, in conjunction with their supervisor, determines the issue/s provided in the written complaints do not meet the requirements for initiating an investigation or are not within the jurisdiction of OCDEL, notification will be provided in writing to the complainant addressing the reason/s why OCDEL was not conducting an investigation or was unable to resolve the allegation.
 9. Families that do not agree with OCDEL's decision may pursue the matter by writing to the appropriate Secretary's of the Department of Education or Public Welfare. The complaint must submit a written request for reconsideration within 15 days of the date the state has issued their decision. The reconsideration from the respective Secretary for each Department will be issued within 45 days of receipt of the written request. If a complainant chooses to pursue this option, any corrective action required in OCDEL's final decision shall not be delayed pending this review if the review process is completed later than 60 days after the original filing of the complaint.

CORRECTIVE ACTION PROCESS:

1. If the complaint has been substantiated as a violation and/or noncompliance of Part B or C of IDEA, Act 212-1990, or other applicable state or federal legislation or regulation, corrective action to restore, amend, or improve the circumstances cited in the complaint shall be taken within 30 calendar days after receipt of the written decision. If full implementation of the corrective action plan requires more than 30 calendar days, the respective EI program will develop a corrective action plan with time frames as directed by BEIS. The corrective action plan must be approved by BEIS.
2. BEIS will monitor the implementation of the corrective action plan to assure correction of the circumstances in the complaint.
3. Infant/Toddler or Preschool EI programs that fail to correct areas of noncompliance within one year, or sooner if required by an approved corrective action plan, may require actions or sanctions, including but not limited to:

- a. Revising a plan of correction with updated timelines for correcting areas of noncompliance;
- b. Focusing training and technical assistance related to correcting the areas of noncompliance;
- c. Placing restrictions or special conditions on funding;
- d. Withholding of funds;
- e. Requiring a fiscal audit;
- f. Stipulating other actions in the written complaint decision.

NEXT STEPS:

1. Infant/Toddler and Preschool EI programs shall ensure that all staff and providers receive training on procedural safeguards and information on the procedures outlined in this announcement.
2. Infant/Toddler and Preschool EI programs shall implement a process by which complaints are tracked and data regarding local conflict resolution activities is maintained.
3. The Infant/Toddler and Preschool programs should use information from the tracking of complaints and local conflict resolution activities to develop and maintain a continuous quality improvement management system.
4. Infant/Toddler and Preschool EI programs should review their current practices and revise any local procedures to ensure the guidance in this announcement is implemented.

Comments and Questions Regarding this Announcement Should be Directed to the Office of Child Development and Early Learning, Bureau of Early Intervention Services EI Advisors or to ra-ocdintervention@state.pa.us

ATTACHMENT #1

EARLY INTERVENTION
COMPLAINT RESOLUTION PROCESS

In order to increase communication and collaboration in assisting parents in resolving concerns at the local level, the Office of Child Development and Early Learning (OCDEL), Bureau of Early Intervention Services (BEIS), has instituted a birth to five Early Intervention Complaint Resolution Process (EICRP).

The purpose of this process is to reduce the number of formal complaints filed with the Bureau of Early Intervention Services as a result of concerns with the local Infant/Toddler Early Intervention (EI) program or Preschool Early Intervention program. This process allows complainants and BEIS EI Advisors to resolve a concern/problem directly with a local program and assist them first in resolving the issue.

Parents have the opportunity to phone, fax, or email the Infant/Toddler or Preschool EI Program and/or the EI Advisor at any time to resolve an issue before elevating it to the complaint level. That information should be sent to:

Departments of Public Welfare and Education
Office of Child Development and Early Learning
Bureau of Early Intervention Services
333 Market Street, 6th Floor
Harrisburg, PA 17126-0333
Email: ra-ocdintervention@state.pa.us
Phone: 717-346-9320
Fax: 717-346-9330

If a resolution cannot be reached after a review of the issue by the BEIS EI Advisor, the parents have the option to pursue the formal complaint process. The EICRP process is BEIS's preferred way to deal proactively with complaint issues and to remain committed in helping families resolve concerns as early and efficiently as possible.

Early Intervention Complaint Registry Form

Please feel free to make copies of this form or use additional paper. Please print or type.

My preferred method of contact by the Office of Child Development and Early Learning (OCDEL) Early Intervention (EI) Advisor assigned to this complaint is:

- By phone (list numbers) _____
Best time during normal business hours to call _____
- In person at a public facility during normal business hours. The location will likely be a Infant/Toddler Early Intervention Program Office or Preschool Early Intervention Program Office.

Are you filing this complaint on behalf of a specific child? Yes _____ No _____

Please provide the name and address of the child:

Child's Name: _____ Date of Birth: _____
Address: _____

Please provide the name of the Infant/Toddler EI Program or the name of the Preschool EI Program:

Please provide your contact information and your relationship to the child.

Name: _____
Address: _____

Phone Number: _____
Home Work Cell

Relationship to child:

- Parent Attorney Advocate Community Organization Other

On or about what date did the alleged violation occur? _____
Date

Attachment #2

To clarify my allegations, I would like the EI Advisor to interview the following person(s).

Name	Occupation/Title	Phone Number/E-Mail Address

Please provide a statement about the issue or violation which you believe has occurred. Please include a description about the nature of the problem. Please list the facts that support your statement.

Feel free to use extra paper and staple to this form.

What do you feel is a satisfactory remedy to this situation?

Please mail original form to: Departments of Public Welfare and Education, Office of Child Development and Early Learning, Bureau of Early Intervention Services, 333 Market Street, 6th Floor, Harrisburg, PA 17126-0333
Or Email: ra-ocdintervention@state.pa.us. Also, please provide a copy of this complaint form and any attachments to the child's EI program. For Infants/Toddlers under the age of three, the form should be sent to the Infant/Toddler Early Intervention Coordinator. For Preschoolers age 3-5, the form should be sent to the Preschool Early Intervention Supervisor.

By signing below, you indicate to the EI Advisor that you have provided a copy of the complaint to the appropriate EI program offices. If you are not sure who to send this complaint form to, please contact OCDEL at 717-346-9320 for assistance.

Signature

Date