Mediation is when everyone (e.g. our family, service providers, etc.) comes together and works out a solution.

A due process hearing is an administrative hearing conducted by the Department of Health. An impartial hearing officer makes a decision.

**Family's Right To Make A Complaint**
We can also make a complaint to the Early Intervention Section if we think the Department of Health is not following Federal or State requirements for early intervention services.

**Family's Right For Continued Service**
Our services continue pending the outcome of our complaint, mediation, and/or due process hearing.

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For more information call:
**The Early Intervention Referral Line**

Oahu
594-0066

or
Neighbor Islands
Call Toll Free:
1-800-235-5477

TTY is available
Monday to Friday
8:00 am - 4:00 pm

If you are calling after hours, please leave a message and your call will be returned.

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The Hawaii Department of Health provides access to activities without regard to race, color, national origin (including language), age, sex, religion, or disability. Write or call our Affirmative Action Officer at Box 3378, Honolulu, HI 96801-3378 at (808) 586-4616 (voice/tty) within 180 days of a problem.

Rev. 10/15

Early Intervention Section
Hawaii Department of Health

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On behalf of infants & toddlers with special needs

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We have rights!

If we think our child needs early intervention services, the Department of Health has 45 days after referral to complete the evaluation to determine our child’s eligibility for services.

Family’s Right To A Plan
If our child is found eligible for services, we are also entitled to have an Individual Family Support Plan (IFSP) within these 45 days that outlines the services we need. This plan must also be reviewed every six months or whenever we need to change it.

Family’s Right To Assistance
We can include other members of our family, a friend, an advocate (supporter), and/or even an attorney at our IFSP meeting.

Family’s Right To Care Coordination
As soon as we are referred for services, we have the right to a care coordinator to give us a hand in getting the services we need.

Family’s Right to Give Permission
We must be informed before any evaluation or services are provided and we must agree in writing.

Family’s Right To Privacy
No information that is personally identifiable concerning anyone in our family can be released without our written approval.

We have needs!

Family’s Right To Understand
If English is not our native language, or if we need to use sign language or other means of communication, we have the right to interpreter services.

Family’s Right To Examine Records
We have the right to examine and obtain a copy of our records.

Family’s Right To Disagree
Should we disagree with any of the recommendations being made or think we are not receiving the services we need, we have the right to voice our concerns.

If we have a complaint about the provision of services, we can talk it over with:

- our care coordinator
- the program manager
- the early intervention supervisor

Family’s Right To Mediation And/Or Due Process
If we are not satisfied, we can make a written request for mediation and/or a due process hearing.
Individuals with Disabilities Education Act (IDEA) (34 CFR §530.300-303.449)

Sec. 303.400 General responsibility of lead agency for procedural safeguards.

Each lead agency must—

(a) Ensure that the information or data contained in records relating to his or her child as long as the record or contested portion is maintained by the State, the lead agency and EIS provider is not permitted to make a disclosure under this paragraph (c) of this section, (Authority: 20 U.S.C. 1412(c), 1412(g)(2), 1417(c), 1435(e)(3), 1437(g)(2), 1439(e)(2), 1439(h)(1), 1439(j)(6)

(c) Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.

Sec. 303.401 Confidentiality and opportunity to examine records.

(a) General. Each State must ensure that the parents of a child referred under Part C of the Act are provided with—

(1) Notice, in accordance with §303.211, of the right to inspect and review the early intervention records containing the information if failure to inform a parent of the refusal and advise the parent in writing. (Authority: 20 U.S.C. 1412(c), 1412(g)(2), 1417(c), 1435(e)(3), 1437(g)(2), 1439(e)(2), 1439(h)(1), 1439(j)(6)

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Section 343.418 Safeguards.
(a) Each participating agency must protect the confidentiality of personally identifiable information in the collection, maintenance, use, storage, disclosure, and destruction stages of any such information. (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information. (c) All procedures used to collect or use personally identifiable information must ensure that training or instruction about the State's policies and procedures under §303.405 do not override a parent's right to refuse consent under §303.420. (d) The parents of an infant or toddler with a disability—

(i) Is not an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, or the other services to the child or any family member of the child;

(ii) Has no professional interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation and participation of the child.

(b) Notice of safeguard.

(a) The lead agency must provide a written notice of safeguards to the parents, with a disinterested party, at the time the need for a surrogate parent is identified. (b) The notice must be—

(i) Written in language understandable to the general public; and

(ii) Provided in the native language, as defined in §303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) The parent understands the notice; and (d) The parent is given an opportunity to refuse delivery of the notice.

(a) Each participating agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide services to the child or to identify the child for purposes under Part C of the Act. The GPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80. (b) Each participating agency must inform parents about the process hearing procedures to resolve complaints with respect to a child who is a ward of the State, in accordance with §303.420.

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(a) An organization or individual may include in its complaint procedures a time limit of 60 days after a complaint is filed under §303.434 to:

(1) Carry out an independent on-site investigation, if the lead agency determines that an investigation is necessary.

(2) Give the complainant the opportunity to submit additional information, or to have the complainant, including a parent of a child with a disability, meet with the lead agency, public agency, or EIS provider.

(3) Provide the lead agency, public agency, or EIS provider with an opportunity to submit written comments or to have a site visit.

(i) At the discretion of the lead agency, a proposal to resolve the complaint.

(ii) An opportunity for a parent who has filed a complaint and the lead agency, public agency, or EIS provider to voluntarily engage in mediation, consistent with §303.430 and §303.431.

(4) Review of relevant information and make an independent determination as to whether the lead agency, public agency, or EIS provider is violating a requirement of Part C of the Act or this part.

(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains--

(i) Findings of fact.

(ii) The reasons for the lead agency’s final decision.

(b) Time extension. Final decision. The lead agency’s procedures described in paragraph (a) of this section also must--

(1) Permit an extension of the time limit under paragraph (a) of this section if--

(i) Exceptional circumstances exist with respect to a particular complaint.

(ii) The parent (or individual or organization, if mediation is available to the individual or organization under paragraph (a) of this section) and the lead agency, public agency or EIS provider agreed to extend the time to engage in mediation prior to final decision.

(2) Include procedures for effective implementation of the lead agency’s final decision, if needed, including--

(i) Technical assistance activities.

(ii) Negotiations.

(iii) Corrective actions to achieve compliance.

(c) Complaints filed under this section and due process hearings under §303.450.

(1) A written complaint is received that is also the subject of a due process complaint under §303.430(d), a multiple exception of which includes or involves the due process hearing, the complaint must be

(i) Addressed by the lead agency that is not a party to the due process hearing.

(ii) If no action is taken by the lead agency, the complaint must be reviewed and determination made as to whether the due process complaint is appropriate.

(iii) The complaint is based on a due process complaint filed under §303.430(d) or §303.450.

(iv) The complaint is filed within 120 days of the due process complaint.

(2) The purpose of the resolution meeting is for the parent of the child referred to in paragraph (a) of this section to discuss any new information with the lead agency that was not available when the due process complaint was filed.

(3) The lead agency must inform the parent of any final resolution in writing that specifically addresses the issues raised in the due process complaint.

(4) The lead agency must inform the parent of the right to appeal to a due process hearing, as described in §303.442, if the parent does not agree with the final resolution.
(a) Subject matter of due process hearing. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §303.440(b) unless the other party agrees otherwise.

(b) Specific misrepresentations by the lead agency or EIS provider that the lead agency, or EIS provider knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State.

(c) Exceptions to the timeline. The timeline described in paragraph (a) of this section does not apply to a parent if the parent was prevented from filing a due process complaint because another due process hearing was pending or another due process hearing had already been held, or if the failure to provide the appropriate information that was required under this part to be provided to the parent was caused by the lead agency, or EIS provider failure to provide the information.

(d) Written settlement agreement. If a written settlement agreement is entered into after a due process complaint is filed, and the settlement agreement begins at the expiration of the 30-day period or later, the parent or lead agency may, at the conclusion of the resolution meeting, request that the hearing be terminated.

(e) Separation of issues. Nothing in paragraph (a) of this section prohibits a parent from filing an appeal of the due process hearing decision with the lead agency under §303.446.

(f) Finality of decision; appeal; impartial review. In matters alleging a procedural violation, a hearing officer may find that an infant or child and that child's family under Part C of the Act; or

(g) Compliance with a due process hearing decision. The lead agency, if it did not appeal the due process hearing decision, and the EIS provider involved in the due process hearing shall, to the extent possible, comply with the due process hearing decision. The lead agency, if it did not appeal the due process hearing decision, shall take appropriate action to ensure that the requirements of the decision are met.

(h) Appeal of decision; additional information. (1) The lead agency may provide procedures for any party to request an additional hearing by the lead agency unless the party is entitled to an impartial hearing by the lead agency.

(i) Reconsideration of findings. The lead agency may, if appropriate, reconsider findings in a due process hearing decision if new evidence becomes available to the lead agency, or if the lead agency determines that a due process hearing decision must be vacated because the lead agency, or EIS provider, was not afforded an opportunity to have the full and complete information necessary to the due process hearing decision.

(j) Finality of decision. A final decision is reached in the due process hearing if the lead agency does not appeal the due process hearing decision within 30 days of the receipt of the decision by the lead agency.

(k) Enforcement of a written agreement. In any action brought under paragraph (a) of this section, the lead agency, or EIS provider involved in the due process hearing shall comply with the findings and decision of the lead agency, or EIS provider in accordance with the due process hearing decision.

(l) Grounding of written agreement. A party to a written settlement agreement may file a due process complaint or request an additional hearing if the agreement is not in accordance with the due process hearing decision.