



EARLY INTERVENTION: QUESTIONS AND ANSWERS

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.

WHEN IS A CHILD ELIGIBLE FOR EARLY INTERVENTION SERVICES?

Children under age three are entitled to Early Intervention services if they have a "developmental delay" in any one or more of the following areas of development: cognitive (thinking), communication, physical (including vision and hearing), social/emotional, or self care, or if they have a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay (some examples are fetal alcohol syndrome, failure to thrive, and Down Syndrome). A child has a developmental delay if appropriate tests show that she is 25% or more behind her peers, or 1.5 standard deviations below the mean on appropriate standardized tests. Children under age three who do not have a qualifying delay or condition, but who are "at risk" of developmental problems, must be tracked and periodically screened to determine if they have become eligible. Examples of "at risk" children include children cared for in neonatal care units of hospitals, children born to chemically dependent mothers, and children with confirmed dangerous levels of lead poisoning.

Children from age three to the minimum age at which they would be eligible for first grade in their school districts are eligible for Early Intervention services if they have a developmental delay (as defined above) and need special instruction, or if they have one of the disabilities that would qualify them for special education if they were of school-age.

**WHERE ARE EARLY INTERVENTION SERVICES PROVIDED?
ARE INFANTS AND TODDLERS AND PRE-SCHOOLERS ENTITLED
TO ATTEND PROGRAMS WITH THEIR NON-DISABLED PEERS?**

Infants and toddlers with disabilities must receive their Early Intervention programs in the most "natural environment" appropriate to their needs - that is, where the youngster would be spending the day if she did not have a developmental delay. Pre-schoolers are entitled to be educated in the "least restrictive environment" like children of school-age. The right setting could be the child's home, day care, or a public or private pre-kindergarten program or a Headstart program. This does not mean that the public agency must pay for the entire child care program (although this could be appropriate in some cases). It does mean that the child cannot be required to attend a separate program to receive special services because that is cheapest or most convenient for the public agency, but only if that is what the child needs to develop and learn. For infants and toddlers and pre-schoolers (unlike school-aged children) home-based programs may be the "least restrictive" - the home is where many young children, with or without disabilities, typically are during the day.

HOW DO YOU GET EARLY INTERVENTION SERVICES FOR YOUR CHILD?

If your child is under the age of three, you should contact your County Office of Mental Health and Mental Retardation and ask for an evaluation. If the child is determined to be eligible, an Individualized Family Service Plan (IFSP) meeting will be scheduled to decide which services she needs. The County Office has *45 calendar days* in which to evaluate the child and complete the IFSP.

Most pre-schoolers (children from their third birthday until they start kindergarten or are eligible for first grade) usually arrange for Early Intervention services through their Intermediate Unit. An eligible pre-schooler should receive the services that are listed on her Individualized Education Program (IEP). The pre-school agency has *60 calendar days* from the time the parents sign the Permission to Evaluate form to evaluate the child and give the parents a written report, and *30 calendar days* in which to convene the meeting at which the IEP is developed. Services must start within *14 calendar days* of the completion of the

IEP.

HOW MANY HOURS AND DAYS OF EARLY INTERVENTION SERVICES CAN A YOUNGSTER RECEIVE?

Infants and toddlers and pre-schoolers are entitled to appropriate Early Intervention services, that is, services that give them an opportunity to make real progress. IFSP or IEP Teams, which include the parent, must decide on an individual basis how many hours and how many days of programming are needed to meet that standard, and the parent has the right to dispute the Team's decision through the hearing process. (See below for more information on "dispute resolution" approaches.)

WHEN ARE YOUNG CHILDREN WITH DEVELOPMENTAL DELAYS ENTITLED TO YEAR ROUND EARLY INTERVENTION SERVICES?

Most infants and toddlers with disabilities under the age of three receive year-round Early Intervention services. For pre-schoolers, the length of the program depends on the needs of the child as determined by the IEP Team (which includes the parent). Most pre-school agencies operate under "stretch calendars," that is, they spread their programs (which usually range from around 160 to 200 days) over the 12 month period so that there is no extended summer break. Programs that run during the breaks in the stretch calendar are called "extended school year" programs. If the parents believe that the child cannot make meaningful progress unless there are fewer breaks and more programming, and the Early Intervention agency disagrees, the family can use its dispute resolution options.

ARE INFANTS AND TODDLERS AND PRE-SCHOOLERS ENTITLED TO RELATED SERVICES SUCH AS TRANSPORTATION AND THERAPIES AS PART OF THEIR EARLY INTERVENTION PROGRAMS?

Infants, toddlers, and pre-schoolers have the same right to free and appropriate related services as children of school-age (for the youngest children, these are called "Early Intervention services"). The IFSP or IEP must list these services, including the type and amount of the service that is needed (for example,

physical therapy, 2x/week, 30 minute sessions). An Early Intervention agency or private Early Intervention provider cannot refuse to provide necessary services because they are too costly or because there is a shortage of service providers.

ARE THERE ANY SERVICES OR RIGHTS THAT ARE SPECIAL TO INFANTS, TODDLERS AND PRE-SCHOOLERS?

Children under the age of three are entitled to receive service coordination and nutrition services, and to have disputes resolved through the hearing system more quickly (within *30 calendar days*). Children birth to five are entitled to have their programs reviewed more often than older children (every six months for children under three, and annually for pre-schoolers). Pre-schoolers must be re-evaluated every two years. The families of young children can also receive some services themselves if needed to help the child to develop properly.

WHAT CAN YOU DO IF YOU DON'T AGREE WITH A DECISION OF YOUR EARLY INTERVENTION AGENCY?

When you disagree with a decision made by the County or the local pre-school agency regarding your child's eligibility for Early Intervention services, the type or amount of services that the child needs, or whether the program is in the "least restrictive environment," you can request mediation, IEP/IFSP Facilitation, a formal meeting, or an impartial hearing. If you select mediation, a trained mediator will try to help your family and the agency resolve the disagreement without the need for a formal hearing. Impartial hearings are conducted by a state-appointed Hearing Officer who is not connected with your Early Intervention agency. For more information, get ELC's Fact Sheet *Resolving Special Education Disputes*, <http://www.elc-pa.org/pubs/downloads/english/dis-Early%20Intervention%20Resolving%20Disputes%204-08.pdf> or call the phone number listed below.

WHEN YOUR CHILD TURNS THREE, MUST YOU START FROM SCRATCH WITH THE LOCAL PRE-SCHOOL AGENCY IN WORKING OUT THE APPROPRIATE PRE-SCHOOL PROGRAM OF EARLY INTERVENTION SERVICES?

To ensure a smooth transition, the IFSP for each toddler who will shortly turn three should include a transition plan that identifies the transition services that will be provided to the child and family. Transition steps include: discussions with, and training for, parents regarding transition and future placements; preparation of the toddler for changes in service delivery, including activities to help the child adjust to and function in a new setting; and, with the parents' consent, the transmission of evaluation and assessment data, IFSPs, and other information to the pre-school Early Intervention agency.

For each toddler who may be eligible for pre-school Early Intervention services, at least 90 days (but if you and the Early Intervention agency agree not more than nine months) before your child turns three, the County Office of Mental Health/Mental Retardation, the local pre-school agency, and the parent meet to plan for the child's future. The meeting should be scheduled at a time and location that works for all of the participants.

If the child has just turned three and was receiving Early Intervention services, the parent can ask the pre-school agency to invite someone from the Infants and Toddlers Early Intervention program to participate in the IEP meeting. If the pre-school agency proposes to change the child's program, and the parent does not agree and requests a hearing, the pre-school agency must provide the child with all of the services listed in the IFSP while the dispute is resolved through the special education hearing and appeal system.

HOW DOES TRANSITION WORK WHEN YOUR CHILD IS READY TO START SCHOOL?

For children within one year of transition to a program for school-age students, the IEP should contain goals and objectives which address the transition process. By the beginning of February, the pre-school agency, the family, and the

school district should meet. The school district and the parent can agree that the existing pre-school IEP should remain in place for the new school year; in that case, no new evaluation is required. Otherwise the parents should be given the opportunity to consent to school district evaluation and to submit an "Intent to Register" form to the district (which includes the parents' authorization for the pre-school agency to send the child's records to the district). The district has *60 calendar days* to evaluate the child and give the parents a written evaluation report. The district must then schedule a meeting within *30 calendar days* to develop the IEP for the next school year. If at the end of this process the parents do not agree with the IEP that has been developed for the school year, they can use the Special Education Hearing System to resolve disputes - and in the meantime the pre-school IEP remains in place and must be implemented by the school district.

**WHEN AN ELIGIBLE CHILD TURNS FIVE,
MUST THE CHILD BEGIN KINDERGARTEN, OR
CAN SHE REMAIN IN EARLY INTERVENTION FOR ANOTHER YEAR?**

The parents can decide that a child who is old enough for kindergarten, but not yet old enough for first grade, can stay in Early Intervention for another year. A child who is old enough to enroll in first grade in her district is no longer eligible for early intervention services.

**WHERE CAN I GO FOR MORE INFORMATION ON
EARLY INTERVENTION LAWS?**

The Education Law Center has a new handbook for parents that explains children's and families rights in more detail. The booklet is called *The Right to Early Intervention for Infants and Toddlers and Their Families in Pennsylvania*. You can download a copy at <http://www.elc-pa.org/pubs/downloads/english/ei-Early%20Intervention%20Manual%20for%20Infants%20and%20Toddlers%202008.pdf> or order a copy for \$10.70 at the Philadelphia telephone number listed below.

**FOR MORE INFORMATION ABOUT THE EARLY INTERVENTION PROCESS,
CONTACT:**

Disability Rights Network
800-692-7443

CONNECT
800-692-7288

Hispanics United for Exceptional Children (HUNE)
215-425-6203

Parents Exchange
610-962-0337

Parent Education Network
800-522-5827

Parent Education & Advocacy Leadership (PEAL) Center
412-422-1949
(Western and Central Pennsylvania)

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Disability Rights Network of Pennsylvania (DRN), pursuant to the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 101-496, and the P&A for Mentally Ill Individuals Act, P.L. 99-319. DRN is located at 1414 N. Cameron Street, Suite C, Harrisburg, PA 17103. Telephone: 800-692-7443 or 717-236-8110. Website: www.drnpa.org.

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