

Announcement EI-25 #02



Pennsylvania
Office of Child Development
and Early Learning

Pennsylvania Office of Child Development and Early Learning
Bureau of Early Intervention Services and Family Supports

Issue Date: 07/01/2025

Effective Date: 07/01/2025

Subject: Early Intervention Complaint Procedures

To: Infant Toddler and Preschool Early Intervention Program Leaders

From:

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PURPOSE

The purpose of this announcement is to communicate the Office of Child Development and Early Learning (OCDEL), Bureau of Early Intervention Services and Family Supports' (BEISFS) procedures for filing, investigating, and resolving formal complaints against the Infant Toddler or Preschool Early Intervention (EI) system related to any alleged violation of requirements under Parts B and C of the Individuals with Disabilities Education Act (IDEA), the Early Intervention Services System Act (Pennsylvania Act 212 of 1990), and other applicable state or federal statutes or regulations.

Announcement EI-11 #01 is obsolete as of the effective date of this announcement.

BACKGROUND

Part B and Part C of the Individuals with Disabilities Education Act (IDEA) under 34 CFR §§ 300.151-153 and 34 CFR §§ 303.432-434, respectively, require states to adopt complaint procedures for resolving complaints alleging violations of IDEA requirements. The procedures in this announcement are being updated to ensure that the process for resolving complaints alleging violations of IDEA requirements complies with the IDEA.

In addition to formal complaints, parents and guardians have a number of options for resolving concerns including the BEISFS Family Concern Line, Individualized Family Service Plan (IFSP)/Individualized Education Program (IEP) Facilitation, Mediation, or a Due Process Hearing. This announcement focuses specifically on formal complaints.

DISCUSSION

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

Definitions:

1. Formal Complaint

A formal complaint is a written, signed report detailing why an individual, parent, guardian, or organization believes that an Infant Toddler or Preschool EI program or BEISFS has not fulfilled its obligations related to or violated Part B or C of the IDEA, Pennsylvania Act 212-1990, or other applicable state or federal statutes or regulations. Complaint subjects include, but are not limited to, the following:

- a. Timelines were not met,
- b. Disagreement with an eligibility determination,
- c. Failure to provide a free appropriate public education (FAPE),
- d. Failure to provide services included in an IFSP or IEP, or
- e. Failure to implement a mediation agreement or due process hearing decision.

2. Complainant

A complainant is an individual, parent, guardian, or organization who files a formal complaint with BEISFS.

3. Respondent

A respondent is the party against whom the formal complaint is filed.

Complaint System Procedures:

1. Individuals, parents, guardians, or organizations can use the Early Intervention Formal Complaint Form (Attachment #1 or Complaint Form) or other forms of documentation to file a formal complaint with BEISFS about an Infant Toddler or Preschool EI program, or about BEISFS itself. The Complaint Form can be obtained by calling 717-346-9320, by emailing ra-ocdintervention@pa.gov, or on-line at <https://www.pattan.net/Forms/Complaint-Resolution-Process-Early-Intervention>.

Formal complaints must include the information required by 34 CFR § 300.153 (Preschool) or 34 CFR § 303.434 (Infant Toddler) and be signed by the complainant. Anonymous formal complaints will not be accepted.

2. BEISFS will assist a complainant with filing a formal complaint, including providing assistance in the complainant's native language or preferred mode of communication.

3. The formal complaint may be mailed, emailed, or faxed to:

Departments of Education and Human Services
Office of Child Development and Early Learning
Bureau of Early Intervention Services and Family Supports
607 South Drive, 4th Floor Rotunda
Harrisburg, PA 17120
Email: ra-ocdintervention@pa.gov
Fax: 717-346-9330

The formal complaint may also be filed by calling 717-346-9320. BEISFS will use the information provided by the complainant to complete the Complaint Form.

4. A formal complaint must be filed within one year of the date the alleged violation occurred.

5. BEISFS will accept a written, electronic, or verbal signature.

- a. Formal Complaint submitted via the Complaint Form: If obtained online, the Complaint Form is a fillable PDF. The complainant can sign the Complaint Form by typing their name in the signature line or physically signing the form and scanning it to be submitted via email. Any mark in the signature line will be considered a valid signature.
- b. Formal Complaint submitted in writing but not on the Complaint Form: BEISFS will accept a typed or handwritten signature. Any mark whether handwritten or typed will be considered a valid signature.
- c. Formal Complaint submitted verbally: If BEISFS assists the complainant by completing the Complaint Form, BEISFS will review the information obtained with the complainant for accuracy and confirm that the complainant is in agreement with the information recorded on the Complaint Form. BEISFS will also ask if the complainant's signature can be noted on the form. If the complainant is in agreement, BEISFS will document on the Complaint Form signature line that the complainant provided a verbal signature.

6. The complainant should forward a signed copy of the formal complaint to the Infant Toddler or Preschool EI program associated with the child at the same time the complainant files the formal complaint with BEISFS.

7. Upon receipt of the formal complaint, BEISFS will enter the formal complaint into a complaint log and forward the information to an EI Advisor who will contact the complainant. The EI Advisor will complete their investigation of the complaint within 60 calendar days of the filing of the formal complaint. The EI Advisor will give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the formal complaint. The EI Advisor will also give the respondent the opportunity to respond to the formal complaint, which can include a proposal to resolve the formal complaint.

8. The EI Advisor, in conjunction with their supervisor, may determine that the issue(s) identified in the formal complaint are not within the purview of BEISFS. Should BEISFS determine that it will not be investigating the formal complaint, BEISFS will notify the complainant in writing and include the reason(s) BEISFS will not be conducting an investigation or why the formal complaint cannot be resolved by BEISFS.

9. Within 60 calendar days after a formal complaint is received, BEISFS will issue a written decision to the complainant and the respondent that addresses each allegation in the formal complaint. This written decision will include:

- a. Findings of fact,
- b. Conclusions, which may include corrective action(s) necessary to address the needs of the child or require provision of EI services, and
- c. The reasons for BEISFS written decision.

10. BEISFS will not issue a written decision on any issue raised in a formal complaint that is also the subject of a due process hearing until after the conclusion of the due process hearing. If an issue raised in a formal complaint has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue and BEISFS will inform the complainant that it cannot decide the issue. BEISFS will decide formal complaints alleging that a due process hearing decision was not implemented.

11. The 60-calendar day timeline for deciding formal complaints may be extended if:

- a. Exceptional circumstances exist with respect to the review and investigation of a particular formal complaint; or
- b. The complainant and Infant Toddler or Preschool EI program involved agree to extend the time for a written decision because they are attempting to resolve the matter through mediation or an alternative means of dispute resolution. All parties will be informed in writing of the extension, the circumstances for the extension, and the new timelines for resolution of the formal complaint.

12. A complainant that does not agree with the written decision may submit a written request for reconsideration to BEISFS within 15 calendar days of the date BEISFS issued its written decision. If the reconsideration request includes new information that was not presented during the initial investigation, an EI Advisor, in conjunction with their supervisor, will review the information and determine whether the new information changes the conclusion of the written decision. BEISFS will issue a written decision on the request for reconsideration within 45 calendar days of receipt of the written request for reconsideration. If the reconsideration process is completed later than 30 calendar days after the issuance of the written decision related to the formal complaint, the Infant Toddler or Preschool EI program must implement any corrective action required by the written decision while the request for reconsideration is pending.

Corrective Action Process:

1. If BEISFS determines that there has been a violation of or noncompliance with Part B or C of the IDEA, Pennsylvania Act 212-1990, or other applicable state or federal statutes or regulations, corrective action consistent with the written decision must be taken within 30 calendar days after respondent's receipt of the written decision. If full implementation of the corrective action plan requires more than 30 calendar days, the Infant Toddler or Preschool EI program must develop a corrective action plan within the time frame directed by BEISFS.
2. In resolving a formal complaint in which BEISFS has found a failure to provide appropriate services, the corrective action plan must address the failure to provide appropriate services and include corrective action(s) appropriate to address the needs of the infant, toddler, or preschooler who is the subject of the formal complaint (such as compensatory services or monetary reimbursement) and the appropriate future provision of services for all children with disabilities.
3. The corrective action plan must be approved by BEISFS.
4. BEISFS will monitor the implementation of the corrective action plan to ensure correction of the noncompliance with Part B or C of the IDEA.
5. BEISFS may require additional actions or impose sanctions on Infant Toddler or Preschool EI programs that fail to correct areas of violation of or noncompliance with Part B or C of the IDEA, Pennsylvania Act 212-1990, or other applicable state or federal statutes or regulations within one year of the written decision on a formal complaint (or sooner if required by an approved corrective action plan). Actions or sanctions, include, but are not limited to:
 - a. Requiring the Infant Toddler or Preschool EI program to revise a corrective action plan to include updated timelines for correcting areas of noncompliance.
 - b. Requiring the Infant Toddler or Preschool EI program to provide staff training or technical assistance related to correcting the areas of noncompliance.
 - c. Placing restrictions or special conditions on funding.
 - d. Withholding funds.
 - e. Requiring a fiscal audit.

NEXT STEPS

1. BEISFS will institute a dissemination plan to widely distribute this announcement and the Complaint Form to parents, guardians, and other interested individuals, protection and advocacy agencies, and other stakeholders.
2. Infant Toddler and Preschool EI programs shall ensure that all staff and providers receive training on procedural safeguards and the procedures outlined in this announcement.
3. 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.