

## Procedural Safeguards Related to Prior Written Notice and Consent

### Consent

Your participation in ECI processes is voluntary. **You will not be required to pay for the screening or evaluation. However, with your permission we will bill your insurance company for the ECI evaluation.** Confidentiality of information is maintained according to the requirements in 34 CFR 99.31. Your written consent is required in the majority of circumstances to release information. We will keep a copy of your record for a period of at least five years, unless additional time is required per 40 TAC 108.237. Records are destroyed after the required time. Your consent is voluntary and may be withdrawn at any time. You may agree to some parts of these processes and not to others. If you do not give your consent for certain parts of these processes, we will discuss with you the implications of your decision (for example, we may not be able to evaluate all of your child's needs). You may request to review your records at any time.

### Resolving Disagreements

*The following explains how you can file a complaint or resolve a disagreement with ECI. This process can be used because of a disagreement about the evaluation process or results, or at any other time you disagree. It is also available to you if you are not satisfied about some experience you had in ECI that you think violated your rights.*

You have a right to have your disagreement addressed by filing a complaint with HHSC ECI. You also have the right to take your complaint to an independent mediator or an administrative hearing. These are important rights and ones you have throughout your time in ECI. Refer to the ECI Parent Handbook or to 20 USC 33 §1415 Procedural Safeguards, 34 CFR Part 303 Subpart E Procedural Safeguards, 40 TAC Part 2 Chapter 101 Administrative Rules and Procedures, and 40 TAC Part 2 Chapter 108 Subchapter B Procedural Safeguards and Due Process Procedures at any time to review available procedural safeguards. In addition, your ECI provider can explain the process to you.

Following are summaries of the procedures available for resolving complaints or disagreements about ECI:

#### **Resolving Problems Locally**

Most disagreements between families and ECI programs can be resolved locally without going through the formal complaint process. Suggestions for resolving problems or concerns locally include:

- Contacting your local program director to discuss the concern and ask for a resolution.
- Calling the HHSC Inquiries Line at 1-800-628-5115 to ask to be connected with someone at the ECI State Office who can help resolve a problem or concern locally.

#### **Filing a Complaint**

If you are unable or do not want to resolve the issue locally, you have the right to file a complaint with HHSC ECI. You can file a complaint about an issue involving your child, or about any aspect of the ECI system that you believe violates legal requirements.

Send a letter, fax, or e-mail to the HHSC ECI office stating your complaint and requesting an investigation. (Call the HHSC Inquiries Line at 1-800-628-5115 for contact information.) Clearly state in writing the facts on which your complaint is based. You do not have to complain to your early intervention services program before filing a complaint with HHSC ECI, but you are required to send them a copy of your complaint at the time the complaint is submitted to HHSC ECI.

HHSC ECI must resolve the complaint within 60 days from the time they receive it. They will send you their findings and decision in writing.

### **Mediation**

When HHSC ECI receives your complaint, they will contact you to offer mediation services. If you choose to try mediation, ECI will assign a neutral mediator (at ECI's expense) to see if the process can resolve the problem between you and your ECI program. Both you and the program will have to agree to use mediation. It is your choice whether to accept the offer of mediation or to proceed with your complaint.

You can request mediation without first filing a complaint or an administrative due process hearing. However, you would still need to provide a written statement of the issues you want resolved. Contact the HHSC ECI office to make your request for mediation.

If you and the program come to an agreement through mediation, the mediator will help you and the program put the agreement in writing. A copy of the written agreement will be given to both you and the program. Mediation agreements are confidential.

**NOTE:** Mediation requests must meet certain requirements. Contact the HHSC ECI state office for more information regarding these requirements.

### **Administrative Due Process Hearing**

You have the right to ask for an administrative due process hearing conducted by a hearing officer if you disagree with decisions made by your ECI team. This includes decisions about eligibility, evaluation and/or services. You can, but are not required to, ask for a hearing after trying one or more of the previous methods first (resolving problems locally, filing a complaint, mediation).

An administrative hearing is a more formal process than either filing a complaint or mediation. Though you are not required to have an attorney, some parents choose to hire one because the hearing process uses legal procedures most parents are not familiar with. If you hire an attorney, it is at your expense. You can also be represented or accompanied by someone who is not an attorney, but who has knowledge and training in early childhood intervention services.

The hearing process follows these steps:

- Upon receiving a written request for an administrative due process hearing, the ECI Assistant Commissioner appoints an impartial hearing officer who is neither an ECI staff member nor a provider of services to the child or family.
- The hearing officer contacts you to schedule a hearing. The hearing must be at a time and place that is convenient for both you and the other party.
- Either party may present evidence, require the attendance of witnesses, and question witnesses. Neither side can present evidence at the hearing unless it has been shown to the other party at least 5 days before the hearing.
- HHSC or the hearing officer records the hearing and provides an exact record of the hearing to the parties upon request.
- The hearing is closed to the public, unless you request it to be open.
- The hearing officer makes a decision within 30 days from the date a request for a hearing is filed. While the hearing is in process, your child, if enrolled in ECI, may continue to receive services, including those that may be in dispute.

To file a complaint with HHSC ECI, request an administrative due process hearing, or to request mediation, send your request or complaint by mail or fax to:

Assistant Commissioner  
Texas Health and Human Services Commission  
Division for Early Childhood Intervention Services  
4900 North Lamar Blvd.  
Austin, TX 78751-2399  
Fax: 1-512-424-6749

Complaints can also be filed by e-mail. To use e-mail, call the HHSC Inquires Line at 1-800-628-5115 and ask them to tell you the procedures.