

3701-8-10

**Parent's rights in help me grow.**

This rule applies to expectant mothers and parents of infants and toddlers participating in help me grow (HMG) early intervention or help me grow home visiting. For the purposes of this rule, expectant mothers, parents of infants or toddlers, and eligible infants and toddlers are referred to in this rule as program participants.

(A) Program participants have the following rights from the time of program referral throughout participation in HMG:

- (1) To be informed of rights both in writing and verbally in the program participant's native language, unless clearly not feasible to do so.
- (2) To be fully informed of all information relevant to the activity for which consent is sought and to provide written consent before:
  - (a) Any tool to conduct screening, evaluation, or assessment is administered on or with the program participant;
  - (b) Any family-directed assessment is conducted with any member of the program participant's family;
  - (c) Any service begins;
  - (d) Any record for the program participant is provided to an individual;
  - (e) Any information about the program participant is shared, who it will be shared with, and the time frame for which information may be shared, except when the information shared is required by procedures within HMG;
  - (f) The program participant's personally identifying information is collected, except when the information collected is required by procedures within HMG;
  - (g) The program participant's public benefits or private insurance are accessed to pay for HMG services; and
  - (h) An application to access the early intervention system of payment is completed and submitted on behalf of the program participant.

(3) To participate or decline to participate in HMG at any time and to be informed

of how refusal to consent will affect the ability to receive services in the program.

- (4) To revoke previously provided consent at any time.
- (5) To accept or decline some or all HMG services throughout program participation, even after initially accepting it, without jeopardizing other services, with the following exceptions:
  - (a) A child will not be eligible for early intervention services and will be exited from the program if the parent refuses to consent to any of the screenings, evaluations or assessments, when required, in accordance with rule 3701-8-07 of the Administrative Code;
  - (b) A child will not be eligible for early intervention services and will be exited from the program if the parent refuses to consent to the development or review of an IFSP in accordance with rule 3701-8-07.1 of the Administrative Code. However, a parent does have the right to decline a specific service suggested for an IFSP;
  - (c) An expectant mother, parent or child will not be eligible for home visiting services and will be exited from the program if the parent refuses to consent to initial or ongoing screenings or assessments of the child or self, as required, in accordance with rules 3701-8-06 and 3701-8-06.1 of the Administrative Code; and
  - (d) An expectant mother, parent or child will not be eligible for home visiting services and will be exited from the program if the parent refuses to consent to the development or review of a family plan, as required, in accordance with rules 3701-8-06 and 3701-8-06.1 of the Administrative Code.
  - (e) An expectant mother, parent or child will not be eligible for home visiting services and will be exited from the program if the parent refuses to keep at least one mutually agreeable and pre-scheduled home visit per calendar month.
- (6) To request, be present at, and contribute fully as a team member in any and all HMG meetings about their family, including family plan or individualized family service plan meetings, and transition planning conferences.
- (7) To opt out of personally identifiable information being provided to the local

education agency of residence.

- (8) To request to review or receive a copy of the program participant's record at any time during program participation and until six years past the date of receipt of payment and to either review the record or receive a copy of the record within ten calendar days.
  - (9) To receive one electronic or paper copy of each completed family plan or IFSP, as applicable, at no cost within ten calendar days of the event.
  - (10) To be fully informed of requests, purpose, and time period for personally identifiable information; and to provide consent, before personally identifiable information would be shared, unless such disclosure is authorized under state and federal law and except when the information shared is required by procedures within HMG.
  - (11) To file a complaint with the department about HMG services.
- (B) When a program participant who is a parent in home visiting files a complaint, the complaint must include the following to be sufficient:
- (1) The name, address, and contact information of the program participant who is making the complaint;
  - (2) Complaint must be in writing and be signed by program participant;
  - (3) A statement that the department, home visiting contractor or provider has violated a home visiting requirement of this chapter;
  - (4) The facts on which the statement is based;
  - (5) The name of the home visiting contractor or provider serving program participant;
  - (6) The complaint must allege a violation of the HMG program that occurred not more than one year prior to the date the complaint was received; and
  - (7) A proposed resolution of the complaint.
- (C) When a program participant who is a parent in early intervention files a complaint for an investigation or mediation, the complaint must include the following to be

considered sufficient:

- (1) A statement that the department, public agency or early intervention services provider has violated a requirement of IDEA early intervention or requirements of this chapter;
  - (2) Complaint must be in writing, contain contact information for program participant filing the complaint and be signed by program participant;
  - (3) The facts on which the statement is based;
  - (4) The name of the child and the name of the early intervention provider serving the child;
  - (5) A description of the nature of the problem of the child, including facts related to the problem;
  - (6) The complaint must allege a violation of the HMG program that occurred not more than one year prior to the date the complaint was received,
  - (7) A proposed resolution of the problem to the extent known and available at the time the complaint is filed; and
  - (8) A copy of the complaint must be provided to the public agency or early intervention services provider serving the child at the same time the complaint is filed with the department.
- (D) When a program participant who is a parent in early intervention files a complaint for a due process hearing, the complaint must include the following to be considered sufficient:
- (1) The name and address of residence of the child;
  - (2) Complaint must be in writing and be signed by program participant or attorney for the program participant;
  - (3) The facts on which the statement is based;
  - (4) The name of the early intervention provider serving the child;

- (5) A description of the nature of the problem of the child, relating to the proposed or refused initiation or change, including facts relating to the problem.
  - (6) The complaint must allege a violation of the HMG program that occurred not more than two years prior to the date the complaint was received, and
  - (7) A proposed resolution of the problem to the extent known and available at the time the complaint is filed.
- (E) When the department receives a sufficient complaint as set forth in paragraphs (B) to (D) of this rule, the department shall contact the parent and explain the options available for dispute resolution. When the complaint involves the home visiting program, the department shall investigate the complaint at no cost to the program participant. The investigation and a written decision shall be completed by the department within sixty calendar days of receipt of a sufficient complaint.
- (F) When the complaint involves the early intervention program, the department shall explain the options, which include:
- (1) Investigation of the complaint by the department at no cost to the program participant. The investigation and a written decision shall be completed within sixty calendar days of receipt of a sufficient complaint. The investigation:
    - (a) Will be conducted, with a report provided to all parties involved within sixty calendar days of the department's receipt of a sufficient complaint and
    - (b) Will provide the parent and the service contractor or provider with an opportunity to be interviewed, submit information in writing, and to respond to allegations related to the complaint.
  - (2) Mediation at no cost to the program participant, which will be arranged by the department. The mediation:
    - (a) Is voluntary on the part of the parties;
    - (b) Is provided by the department at no cost to the program participant;
    - (c) May not be used to deny or delay a parent's right to a due process hearing,

or to deny any other rights afforded by early intervention; and

- (d) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
- (3) Due process hearing, if the complaint alleges that the department, early intervention contractor or service provider proposes or refuses to initiate or change the identification, evaluation, or placement of an infant or toddler or the provision of early intervention services to the infant or toddler with a disability and that infant or toddler's family, which shall include scheduling a hearing before a qualified and impartial hearing officer who will provide a written decision within forty-five days from receipt of a request for a due process hearing. The due process hearing shall be conducted in accordance with 34 CFR 303.440 to 34 CFR 303.447 ~~448~~ (in effect on July 1, 2012) and at the due process hearing, the program participant may:
- (a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;
  - (b) Present evidence and confront, cross-examine, and compel the attendance of witnesses as provided in paragraph (F) of this rule;
  - (c) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
  - (d) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
  - (e) Receive a written copy of the hearing officer's findings of fact, conclusions of law and decision at no cost to the parent.
- (G) The director may issue subpoenas to compel the attendance of witnesses or the production of documents at a due process hearing. Any such subpoenas shall be served in the manner prescribed by the "Ohio Rules of Civil Procedure." The director shall issue subpoenas upon request by a party if the request is received by the director no fewer than fourteen days before the date set for the hearing.

Effective:

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Certification

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Date

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