

## Component 8.0 Procedural Safeguards

**Authority:** 20 U.S.C Section [1412](#), [1415](#), [1417](#), [1435](#), [1439](#), [1442](#)


34 CFR Sections [99.10](#), [99.11](#), [99.20](#), [99.30](#), [99.31](#), [99.32](#), [99.33](#), [99.34](#), [99.35](#), [99.36](#), [303.400](#), [303.401](#), [303.402](#), [303.403](#), [303.404](#), [303.405](#), [303.406](#), [303.407](#), [303.408](#), [303.409](#), [303.410](#), [303.411](#), [303.412](#), [303.413](#), [303.414](#), [303.415](#), [303.416](#), [303.417](#), [303.420](#), [303.421](#), [303.422](#), [303.430](#), [303.431](#), [303.432](#), [303.433](#), [303.434](#), [303.440](#), [303.441](#), [303.442](#), [303.443](#), [303.444](#), [303.445](#), [303.446](#), [303.447](#), [303.448](#), [303.449](#), [303.7](#), [303.520](#)

Florida Statutes [39.201](#), [39.202](#), [391.308](#), [381.0022](#), [402.115](#), [415.1034](#)

**Intent:** These policies are intended to ensure that infants and toddlers and their families are guaranteed procedural safeguards with respect to the provision of early intervention services.

**Sections:**





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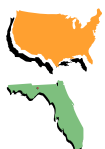
	8.1.0 Minimum Procedures		
	<table> <tr> <th data-bbox="121 1192 272 1245">Policy</th><th data-bbox="272 1192 1516 1245">Reference/Related Documents</th></tr> </table>	Policy	Reference/Related Documents
Policy	Reference/Related Documents		
	<p>8.1.1 The <a href="#">Early Steps State Office</a> (ESSO) shall adopt the procedural safeguards in the provisions of <a href="#">Part C of IDEA</a> and provide, at minimum, the procedural safeguards outlined in Policy Handbook 8.2.0 through 8.11.0. This includes written procedures for the timely administrative resolution of complaints through mediation, complaint procedures, and due process procedures.</p> <p> <a href="#">U.S.C. §1415</a>  <a href="#">U.S.C. §1439</a>  <a href="#">34 CFR §303.400(a)</a>  <a href="#">34 CFR §303.430(a)</a>  <a href="#">Operations Guide 8.1.1</a>  <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a>  <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a>  <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a> </p>		



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	8.1.2 The <a href="#">ESSO</a> shall ensure that families are adequately informed of their rights and that procedural safeguards are implemented throughout the early intervention process.	<a href="#">U.S.C. §1415</a> <a href="#">U.S.C. §1439</a> <a href="#">34 CFR §303.400(b)</a>
<b>8.2.0 Confidentiality and Opportunity to Examine Early Steps Records</b>		
Policy		Reference/Related Documents
	8.2.1 <a href="#">ESSO</a> , <a href="#">Local Early Steps</a> and service providers will ensure the confidentiality of <a href="#">personally identifiable information</a> , <a href="#">data</a> and records collected, used or maintained by ESSO or the LES, including the right of parents to written notice of and written parental consent to the exchange of personally identifiable information among agencies, consistent with federal and state law. This applies from the time the child is referred to Early Steps until the agency is no longer required to maintain this information.	<a href="#">34 CFR §303.401(a)</a> <a href="#">34 CFR §303.401(c)(1)</a> <a href="#">34 CFR §303.401(c)(2)</a> <a href="#">34 CFR §303.414(b)</a> <a href="#">34 CFR §303.520(a)</a> <a href="#">34 CFR §303.520(b)</a> <a href="#">34 CFR §99.30</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a>
	8.2.2 The protections of the Family Educational Rights and Privacy Act (FERPA) regarding the confidentiality of personally identifiable information apply to families served by <a href="#">Early Steps</a> .	<a href="#">U.S.C. §1417(c)</a> <a href="#">U.S.C. §1442</a> <a href="#">34 CFR §303.401(b)</a> <a href="#">34 CFR §303.402</a> <a href="#">34 CFR §99.31</a> <a href="#">34 CFR §99.33</a> <a href="#">34 CFR §99.34</a> <a href="#">34 CFR §99.35</a> <a href="#">34 CFR §99.36</a> <a href="#">34 CFR §99.37</a>
	8.2.3 <a href="#">Local Early Steps</a> must ensure that <a href="#">parents</a> have the opportunity to inspect and review all <a href="#">Early Steps records</a> about the child and child's family that are collected, maintained, or used relating to <a href="#">evaluations</a> and <a href="#">assessments</a> , <a href="#">screenings</a> , eligibility determinations, development and implementation of the <a href="#">IFSP</a> , provision of early intervention services, individual complaints involving with the child, and any	<a href="#">U.S.C. §1439(a)(4)</a> <a href="#">34 CFR §303.401(b)(2)</a> <a href="#">34 CFR §303.405(a)</a> <a href="#">34 CFR §99.10</a>



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	other Early Steps records involving the child and <a href="#">family</a> , including records maintained by the <a href="#">LES</a> or a person or agency acting on behalf of the LES.	
	8.2.4 <a href="#">LES</a> must provide <a href="#">parents</a> , upon request, a list of the types and locations of <a href="#">Early Steps records</a> kept on their child, where they are maintained and how they can gain access to them.	<a href="#">U.S.C. §1412(a)(8)</a> <a href="#">U.S.C. §1417(c)</a> <a href="#">34 CFR §303.408</a> <a href="#">34 CFR §99.30</a>
	8.2.5 <a href="#">LES</a> will respond to and comply with a <a href="#">parent's</a> request to inspect and review their child's <a href="#">Early Steps records</a> without unnecessary delay and before any meeting regarding an <a href="#">IFSP</a> or due process hearing, but not more than 10 days after a request has been made.	<a href="#">34 CFR §303.405(b)</a> <a href="#">34 CFR §99.10</a>
	8.2.6 A. <a href="#">LES</a> or service providers must make available to parents an initial copy of the <a href="#">Early Steps record</a> , at no cost to the parents. B. <a href="#">LES</a> or service providers may charge a fee for copies of the <a href="#">Early Steps records</a> , but only if such a fee does not prevent the <a href="#">parent</a> from inspecting and reviewing the record. This does not include a copy of each <a href="#">evaluation</a> , <a href="#">assessment</a> of the child, family assessment, and <a href="#">IFSP</a> as soon as possible after each IFSP meeting at no cost. C. LES or service providers may not charge a fee to search for or collect information.	<a href="#">U.S.C. §1412(a)(8)</a> <a href="#">U.S.C. §1417(c)</a> <a href="#">34 CFR §303.400(c)</a> <a href="#">34 CFR §303.405(b)(2)</a> <a href="#">34 CFR §303.409</a> <a href="#">Operations Guide 8.2.6</a>
	8.2.7 The <a href="#">family</a> of the child has the right to have someone from the <a href="#">LES</a> or the service provider explain or interpret any item in the <a href="#">Early Steps record</a> that the family does not understand.	<a href="#">34 CFR §303.405(b)(1)</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a>
	8.2.8 A. If the <a href="#">parent</a> feels that any statement in the <a href="#">Early Steps records</a> is wrong or misleading, or violates the privacy or other rights of the child, he/she may submit a written request for the <a href="#">LES</a> or service provider to change it. The LES or service provider must either change such statement(s) in a	<a href="#">U.S.C. §1412(a)(8)</a> <a href="#">U.S.C. §1417(c)</a> <a href="#">U.S.C. §1439(a)(4)</a> <a href="#">34 CFR §99.20</a> <a href="#">34 CFR §303.410(a)</a> <a href="#">34 CFR §303.410(b)</a>



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	reasonable period of time or formally refuse to do so.  B. If the LES or service provider refuses to do so, the parents must be informed in writing of that refusal, be advised of the right to dispute the decision to refuse to change the record and advised of the right to a hearing. The hearing must be in accordance with FERPA procedures.	<a href="#">34 CFR §303.410(c)</a> <a href="#">34 CFR §303.413</a>
	8.2.9 <a href="#">Parents</a> have the right to have a representative inspect and review the <a href="#">Early Steps record</a> .	<a href="#">34 CFR §303.405(b)(3)</a>
	8.2.10 <a href="#">Parents</a> have the authority to inspect and review records relating to their child unless the <a href="#">LES</a> has been provided documentation that the parent does not have the authority under applicable state law governing such matters as custody, foster care, guardianship, separation and divorce.	<a href="#">34 CFR §303.405(c)</a>
	8.2.11 If any <a href="#">Early Steps record</a> includes information on more than one child, the <a href="#">parents</a> of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.	<a href="#">34 CFR §303.407</a>
	8.2.12 Each <a href="#">LES</a> shall protect the confidentiality of <a href="#">personally identifiable information</a> at the collection, maintenance, use, storage, disclosure, and <a href="#">destruction</a> stages.	<a href="#">34 CFR §303.415(a)</a>
	8.2.13 One official at each <a href="#">LES</a> shall assume responsibility for ensuring the confidentiality of any <a href="#">personally identifiable information</a> .	<a href="#">34 CFR §303.415(b)</a>
	8.2.14 All persons collecting or <a href="#">personally identifiable information</a> must receive training or instruction regarding the State's policies and procedures.	<a href="#">34 CFR §303.415(c)</a> <a href="#">Policy Handbook 8.2.26</a>
	8.2.15 Each <a href="#">LES</a> shall maintain, for public inspection, a current listing of the names and positions of those employees who may have access to <a href="#">personally identifiable information</a> .	<a href="#">34 CFR §303.415(d)</a>
	8.2.16 A. The <a href="#">LES</a> shall inform <a href="#">parents</a> when <a href="#">personally identifiable information</a> collected, maintained, or used is no longer needed to provide <a href="#">early intervention services</a> to the child. B. The information must be <a href="#">destroyed</a> at the request of the parents. However, a permanent record of a	<a href="#">34 CFR §303.416(a)</a> <a href="#">34 CFR §303.416(b)</a> <a href="#">General Education Provision Act (GEPA) Section 443</a> <a href="#">Education Department General Administrative Regulations (EDGAR)</a>



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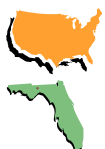
	child's name, date of birth, parent contact information (address, phone number), names of <a href="#">service coordinator(s)</a> and providers, and exit data (year and age upon exit, and any programs entered into upon exit) may be maintained without time limitation.	<a href="#">Part 76</a> <a href="#">EDGAR Part 80</a> <a href="#">Policy Handbook 12.5.5</a>
	8.2.17 The <a href="#">LES</a> shall, on request, provide an opportunity for a hearing to challenge information in the <a href="#">Early Steps record</a> to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.	<a href="#">34 CFR §303.411</a> <a href="#">Policy Handbook 8.10.0</a>
	8.2.18 If, as a result of a hearing, it is determined that information in the <a href="#">Early Steps record</a> is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child or <a href="#">parent</a> , the records will be amended accordingly and the parents will be notified in writing.	<a href="#">34 CFR §303.412(a)</a>
	8.2.19 If, as a result of the hearing, it is determined that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or <a href="#">parent</a> , the parent will be informed of the right to place in the <a href="#">Early Steps record</a> a statement commenting on the information or reasons for disagreeing with the decision of the agency.	<a href="#">34 CFR §303.412(b)</a>
	8.2.20 Any explanation placed in the <a href="#">Early Steps record</a> as stated in <a href="#">Policy Handbook 8.2.18</a> and <a href="#">8.2.19</a> above must be maintained by the <a href="#">LES</a> as part of the Early Steps record as long as the record or contested portion is maintained by the LES. If the Early Steps record or the contested portion is disclosed by the LES to any party, the explanation must also be disclosed to the party.	<a href="#">34 CFR §303.412(c)</a>
	8.2.21 A. Test materials shall not be reproduced, in whole or in part, in any fashion unless permission has been obtained in writing from the publisher. B. Reproduction of test materials without proper permission represents a violation of copyright law.	<a href="#">34 CFR §99</a> <a href="#">Operations Guide 8.2.21</a> <a href="#">8/7/2007 OSEP Letter to Shuster</a>
	8.2.22 The <a href="#">Local Early Steps</a> may disclose personally identifiable information from an Early Steps record only on the condition that the party to whom the information is disclosed will not disclose	<a href="#">U.S.C. §1439(a)(2)</a> <a href="#">34 CFR §99.33</a>








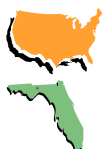
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	the information to another party without prior consent of the parent or guardian, except as specified in <a href="#">Policy Handbook 8.5.6.</a>	
	<p>8.2.23</p> <p>A. Each <a href="#">LES</a> must keep a record of parties obtaining or requesting access to Early Steps records collected, maintained or used under <a href="#">IDEA, Part C</a>, except access by parents and <a href="#">authorized representatives</a> of the LES. <a href="#">Form CMS-ES 1063 Log of Access to Record</a> must be used for this purpose. The record of access must include:</p> <ol style="list-style-type: none"> <li>1. The name of the party,</li> <li>2. The date access was given, and</li> <li>3. The purpose for which the party was authorized to use the records.</li> </ol> <p>B. The record of access shall be maintained with the Early Steps record as long as the <a href="#">Early Steps record</a> is maintained.</p>	<p><a href="#">U.S.C. §1412(a)(8)</a></p> <p><a href="#">U.S.C. §1417(c)</a></p> <p><a href="#">U.S.C. §1439(a)(2)</a></p> <p><a href="#">34 CFR §99.32</a></p> <p><a href="#">34 CFR §99.35</a></p> <p><a href="#">34 CFR §303.406</a></p> <p><a href="#">Operations Guide 8.2.23</a></p>
	<p>8.2.24</p> <p>A. <a href="#">Super confidential</a> information (i.e., adult and child abuse information, alcohol and drug abuse information, psychiatric treatment records, tuberculosis (TB), sexually transmitted diseases (STD) and HIV/AIDS information, information related to adoption proceedings) requires a specific <a href="#">consent</a> for release, which means at a minimum, the consent must mention the type of restricted information.</p> <p>B. Super confidential information in the <a href="#">Early Steps record</a> must be kept separate and marked, <b><i>“Confidential - you are prohibited from making any further disclosure of this information without specific written consent of the person to whom it pertains or as otherwise permitted in 42 CFR §2”.</i></b></p> <p>C. Prior to releasing the Early Steps record, the <a href="#">LES</a> must review the record for restricted information and make certain the signed consent forms specifying the type of information to be released are on file.</p>	<p><a href="#">U.S.C. §1439(a)(2)</a></p> <p><a href="#">34 CFR §99.30</a></p> <p><a href="#">34 CFR §99.31</a></p> <p><a href="#">34 CFR §99.32</a></p> <p><a href="#">34 CFR §99.33</a></p> <p><a href="#">34 CFR §99.34</a></p> <p><a href="#">34 CFR §99.35</a></p> <p><a href="#">34 CFR §99.36</a></p>
	8.2.25 Each <a href="#">LES</a> must maintain <a href="#">Early Steps records</a> in locked files/storage rooms at all times in order to secure confidentiality.	<p><a href="#">U.S.C. §1417(c)</a></p> <p><a href="#">34 CFR §99.32</a></p>





	8.2.26 Reserved	
	8.2.27 Each <a href="#">LES</a> contract entity is responsible for ensuring compliance with the Health Insurance Portability and Accountability Act (HIPAA).	<a href="#">Operations Guide 8.2.27</a>
<b>8.3.0 Use of Native Language</b>		
Policy		Reference/Related Documents
	8.3.1 When the language that a <a href="#">family</a> speaks and understands is a language other than English, all prior written notices, <a href="#">evaluations/assessments</a> , and <a href="#">IFSPs</a> , must be in their preferred <a href="#">native language</a> unless it is clearly not feasible to do so.	<a href="#">U.S.C. §1439(a)(7)</a> <a href="#">34 CFR §303.421(c)(1)</a>
	8.3.2 When a <a href="#">family</a> uses a mode of communication (such as Braille or sign language) or a <a href="#">native language</a> that is not a written language, the <a href="#">LES</a> staff shall take steps to document that:  A. The prior written notices, including procedural safeguards are translated orally or by other means to the <a href="#">parent</a> in the parent's native language or preferred other mode of communication,  B. The parent understands the information contained in the Early Steps record or prior written notices, including procedural safeguards, and  C. Document that these requirements have been met.	<a href="#">34 CFR §303.421(c)(2)</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a>
<b>8.4.0 Prior Written Notice</b>		
Policy		Reference/Related Documents
	8.4.1 Prior written notice, including procedural safeguards, must be given to <a href="#">parents</a> in a reasonable time before the <a href="#">LES</a> or service provider proposes, or refuses, to initiate or change the <a href="#">identification</a> , <a href="#">evaluation</a> , or <a href="#">placement</a> of the infant or toddler or the provision of appropriate <a href="#">early intervention services</a> to the infant or toddler with a disability child or the child's <a href="#">family</a> .	<a href="#">U.S.C. §1439(a)(6)</a> <a href="#">34 CFR §303.421(a)</a> <a href="#">391.308(4)(b), F.S.</a> <a href="#">Operations Guide 8.4.1</a>
	8.4.2 The prior written notice must contain:  A. A description of the action proposed or refused,  B. The reasons for taking the action, and	<a href="#">34 CFR §303.404(a)</a> <a href="#">34 CFR §303.404(b)</a> <a href="#">34 CFR §303.404(c)</a>



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	<p>C. The Summary of Procedural Safeguards, including a description of mediation, how to file a complaint, due process, the timelines, and the following:</p> <ol style="list-style-type: none"> <li>1. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information,</li> <li>2. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information,</li> <li>3. A description of all the rights of parents and children regarding this information, including the confidentiality provisions, and</li> <li>4. A description of the extent that the notice is provided in the native languages of the various population groups in the state.</li> </ol>	<p><a href="#">34 CFR §303.404(d)</a></p> <p><a href="#">34 CFR §303.421(b)</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a></p>
	<p>8.4.3 The prior written notice, including the procedural safeguards must be in a language understandable to the general public and provided in the preferred <a href="#">native language</a> of the <a href="#">parents</a>, unless it is clearly not feasible to do so.</p>	<p><a href="#">U.S.C. §1415(b)(4)</a></p> <p><a href="#">34 CFR §303.421(c)(1)(ii)</a></p> <p><a href="#">Policy Handbook 8.4.2</a></p>
	<p>8.4.4</p> <p>A. <a href="#">Form CMS-ES 1065 Prior Written Notice</a> serves as documentation of refusal to initiate or change the <a href="#">identification</a>, <a href="#">evaluation</a>, or <a href="#">placement</a> of the infant or toddler with a disability, or the provision of appropriate <a href="#">early intervention services</a> to the child or the child's <a href="#">family</a>.</p> <p>B. Each <a href="#">LES</a> will insert the required child-and situation-specific information into the prior written notice and inform <a href="#">parents</a> that they have protection under the procedural safeguards of <a href="#">IDEA, Part C</a>.</p>	<p><a href="#">Form CMS-ES 1065 Prior Written Notice - Spanish</a></p> <p><a href="#">Form CMS-ES 1065 Prior Written Notice - Creole</a></p>
	8.4.5 Reserved	



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	8.4.6 Reserved	
	8.4.7 Each <a href="#">LES</a> must ensure that the <a href="#">parent</a> or guardian has an opportunity to discuss proposed changes with the <a href="#">IFSP team</a> before any change in service delivery is implemented.	
<b>8.5.0 Parental Consent</b>		
Policy		Reference/Related Documents
	<p>A. <a href="#">ESSO</a>, <a href="#">Local Early Steps</a> and service providers must ensure that parental <a href="#">consent</a> is obtained before:</p> <ol style="list-style-type: none"> <li>1. Administering <a href="#">screening</a> procedures to determine if a child is eligible for Early Steps,</li> <li>2. Conducting all <a href="#">evaluations</a> and <a href="#">assessments</a> of a child, unless only being administered as part of the child outcomes measurement system,</li> <li>3. Early intervention services are provided,</li> </ol> <p>B. If a <a href="#">parent</a> does not give consent to activities in 8.5.1.A the <a href="#">LES</a> shall make reasonable efforts to ensure that the <a href="#">parent</a> is fully aware of the nature of the evaluation and assessment or the services that would be available and understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.</p> <p>C. Additional circumstances requiring ESSO, LESs and Service Providers to ensure parental consent is obtained include prior to:</p> <ol style="list-style-type: none"> <li>1. Use of private insurance, including when it is used as a prerequisite to using Medicaid,</li> <li>2. Use of Public Insurance/Medicaid/Managed Care Plan, and</li> <li>3. Disclosure of personally identifiable information consistent with <a href="#">Policy 8.2.1.</a></li> </ol>	<p><a href="#">34 CFR §303.420(a)</a>  <a href="#">34 CFR §303.420(b)</a>  <a href="#">34 CFR §303.414(c)</a>  <a href="#">34 CFR §303.520(a)</a>  <a href="#">34 CFR §303.520(b)</a>  <a href="#">Policy Handbook 3.3.1</a>  <a href="#">Operations Guide 8.5.1</a></p>



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	8.5.2 <a href="#">ESSO</a> , <a href="#">LES</a> and service providers must provide written notice and obtain <a href="#">consent</a> from the <a href="#">parent</a> in order to obtain, release or exchange <a href="#">personally identifiable information</a> concerning the child and <a href="#">family</a> except as specified in <a href="#">Policy Handbook 8.5.6</a> . This also includes the verbal sharing of personally identifiable information.	<a href="#">U.S.C. §1439(a)(2)</a> <a href="#">34 CFR §99.30</a> <a href="#">34 CFR §303.414(a)</a>
	8.5.3 Each <a href="#">Early Steps record</a> must contain documentation of parental <a href="#">consent</a> to release and/or transmit information to another agency or individual, except as specified in <a href="#">Policy Handbook 8.5.6</a> . The consent will describe the action to take place; list the information (if any) that will be released; and identify the party to whom the disclosure will be made.	<a href="#">34 CFR §99.30</a> <a href="#">34 CFR §303.7</a>
	8.5.4 <a href="#">ESSO</a> , <a href="#">LES</a> , and service providers must explain to the <a href="#">parent</a> that the granting of <a href="#">consent</a> to obtain, release or exchange <a href="#">personally identifiable information</a> may be revoked at any time.	<a href="#">34 CFR §303.7</a> <a href="#">Operations Guide 8.5.4</a>
	8.5.5 The <a href="#">LES</a> must use the <a href="#">Authorization to Disclose Confidential Information</a> form to document consent for release of personally identifiable information.	<a href="#">Authorization to Disclose Confidential Information - Spanish</a> <a href="#">Authorization to Disclose Confidential Information - Creole</a>
	8.5.6 No record or file will be released to another agency or individual without <a href="#">consent</a> from the <a href="#">parent</a> or other person with legal authority to make such a release, except as follows to:  A. The parents of the child,  B. Other <a href="#">Local Early Steps</a> officials in Florida for the purpose of ensuring the provision of appropriate <a href="#">early intervention services</a> ,  C. <a href="#">ESSO</a> officials for the purpose of carrying out their administrative/programmatic functions,  D. Other local agencies that are acting as an agent of the <a href="#">ESSO</a> through a contract or written interagency agreement that addresses the specific information to be shared and the purpose for sharing the information,  E. An organization conducting a study for <a href="#">ESSO</a> or a <a href="#">LES</a> pursuant to a written agreement that specifies	<a href="#">U.S.C. §1439</a> <a href="#">42 U.S.C. 15043(a)(2)(I)(iii)</a> <a href="#">34 CFR §303.414(b)</a> <a href="#">34 CFR §303.520(a)</a> <a href="#">34 CFR §303.520(b)</a> <a href="#">34 CFR §99.31</a> <a href="#">34 CFR §99.34</a> <a href="#">34 CFR §99.35</a> <a href="#">34 CFR §99.36</a> <a href="#">39.201 F.S.</a> <a href="#">39.202 F.S.</a> <a href="#">381.0022 F.S.</a> <a href="#">402.115 F.S.</a> <a href="#">415.1034 F.S.</a> <a href="#">Policy Handbook 1.6.12</a>



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	<p>the purpose, scope, and duration of the study and the information disclosed,</p> <p>F. Accrediting organizations to carry out their accrediting functions,</p> <p>G. The entity or persons designated in a federal grand jury <a href="#">subpoena</a> or any other judicial order or lawfully issued subpoena.</p> <ol style="list-style-type: none"> <li>1. This information may be disclosed only if the <a href="#">ESSO</a> or <a href="#">LES</a> makes a reasonable effort to notify the <a href="#">parent</a> /guardian of the eligible child of the order or subpoena in advance of compliance, so that the <a href="#">parent</a>/guardian may seek protective action, unless the disclosure is in compliance with: <ol style="list-style-type: none"> <li>a. A federal grand jury <a href="#">subpoena</a> and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed,</li> <li>b. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, and</li> <li>c. An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations</li> </ol> </li> </ol>	<p><a href="#">Operations Guide 8.5.6</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a></p> <p><a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a></p>
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	<p>or prosecutions for a federal act of terrorism or an act of domestic or international terrorism,</p> <ol style="list-style-type: none"> <li>2. If ESSO or LES initiates legal action against a parent/guardian of the eligible child, they may disclose to the court, without a court order or subpoena, the education records of the child that are relevant to proceed with the legal action as plaintiff.</li> <li>3. If a parent/guardian of the eligible child initiates legal action against the ESSO or LES, the ESSO or LES may disclose to the court, without a court order or subpoena, the child's records that are relevant for the ESSO or LES to defend itself.</li> </ol> <p>H. The <a href="#">Local School District</a> for the purpose of notification, unless the <a href="#">parent</a> objects in writing to the sharing of information as stated in <a href="#">Policy Handbook 7.2.1</a>. Refer to <a href="#">Policy Handbook 7.2.4</a> when the parents object to the sharing of information,</p> <p>I. DCF or tribal organization, if applicable, for a child in foster care when such agency or organization is legally responsible for the care and protection of the child,</p> <p>J. The court in response to a judicial proceeding in which the parent is already a party to a judicial order. The LES must make reasonable efforts to notify the parent prior to disclosing the record unless the court has already provided notice to the parent or a parent is a party to a court proceeding involving child abuse and neglect or dependency matters,</p> <p>K. The Florida Abuse Hotline for the purpose of reporting suspected abuse, neglect or abandonment by a <a href="#">parent</a>, legal custodian, caregiver, or other person responsible for the child's welfare or reporting that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult</p>	
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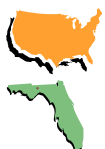
	<p>relative immediately known and available to provide supervision and as required in <a href="#">39.201 F.S.</a>,</p> <p>L. The Florida Abuse Hotline for the purpose of reporting suspicion of (or have knowledge of) abuse, neglect or exploitation of a child, aged person or disabilities adult as stated in <a href="#">415.1034 F.S.</a></p> <p>M. A party's legal representative(s), as appropriate,</p> <p>N. Other exceptions, as outlined in 34 CFR §99, are hereby incorporated reference.</p>	
	<p>8.5.7</p> <p>A. Early Steps staff and providers must report suspected abuse, neglect or abandonment as required in sections <a href="#">39.201, F.S.</a> and <a href="#">415.1034, F.S.</a></p> <p>B. The following occupations are required to provide their names to the hotline staff when they report suspected abuse, neglect or abandonment:</p> <ol style="list-style-type: none"> <li>1. Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, or hospital personnel engaged in the admission, examination, care, or treatment of persons,</li> <li>2. Health or mental health professional,</li> <li>3. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker,</li> <li>4. Practitioner who relies solely on spiritual means for healing,</li> <li>5. School teacher or other school official or personnel,</li> <li>6. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker,</li> <li>7. Law enforcement officer, and</li> <li>8. Judge.</li> </ol> <p>C. Records concerning reports of abuse, neglect or abandonment, including the name of the reporter, when provided, will be confidential as specified in</p>	



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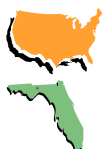
	<a href="#">39.201 F.S.</a>	
	<p>8.5.8 The <a href="#">Local Early Steps</a> can accept “signed and dated parental <a href="#">consent</a>” in electronic format when the Local Early Steps has in place processes that:</p> <p>A. Identify and authenticate a particular person as the source of the electronic consent.</p> <p>B. Indicate such person’s approval of the information contained in the electronic consent.</p>	<p><a href="#">U.S.C. §1439</a> <a href="#">34 CFR §99.30</a></p>
	8.5.9 <a href="#">ESSO</a> may not use the due process hearing procedures to challenge a parent’s refusal to provide any consent that is required.	<a href="#">34 CFR §303.420(c)</a>
	8.5.10 <a href="#">Parents</a> may determine whether they, their infant or toddler, or other <a href="#">family</a> members will accept or decline any early intervention service at any time and may decline an early intervention service after first accepting it, without jeopardizing other early intervention services.	<p><a href="#">U.S.C. §1439(a)(3)</a> <a href="#">34 CFR §303.420(d)(1)</a> <a href="#">34 CFR §303.420(d)(2)</a></p>
<b>8.6.0 Reserved</b>		
<b>8.7.0 Reserved</b>		
<b>8.8.0 Assignment of a Surrogate Parent</b>		
Policy		Reference/Related Documents
	<p>8.8.1 The <a href="#">ESSO</a> will have in place procedures to protect the rights of an infant or toddler by assignment or appointment of a <a href="#">surrogate parent</a> whenever:</p> <p>A. The <a href="#">parent</a> of the infant or toddler cannot be identified,</p> <p>B. The parent cannot be located, after reasonable efforts; and/or</p> <p>C. The infant or toddler is a <a href="#">ward of the state</a>, under the Laws of Florida.</p>	<p><a href="#">U.S.C. §1415(b)(2)(A)</a> <a href="#">U.S.C. §1439(a)(5)</a> <a href="#">34 CFR §303.422(a)(1)</a> <a href="#">34 CFR §303.422(a)(2)</a> <a href="#">34 CFR §303.422(a)(3)</a> <a href="#">34 CFR §303.422(b)(i)</a> <a href="#">34 CFR §303.422(b)(ii)</a> <a href="#">Operations Guide 8.8.1</a></p>
	8.8.2 <a href="#">ESSO</a> shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after there is a determination by the ESSO or the <a href="#">LES</a> that the child needs a surrogate parent.	<p><a href="#">U.S.C §1415(b)(2)(B)</a> <a href="#">34 CFR 303.422(g)</a></p>
	<p>8.8.3</p> <p>A. The <a href="#">LES</a> will consult with the local department of children and families agencies when determining the</p>	<p><a href="#">34 CFR §303.422(b)(ii)</a> <a href="#">34 CFR §303.422(c)</a></p>



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	<p>need and assignment of a <a href="#">surrogate parent</a> for an infant or toddler who is a <a href="#">ward of the state</a> or placed in foster care.</p> <p>B. If a child is a ward of the state, a surrogate parent may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in <a href="#">Policy 8.8.4</a>, <a href="#">8.8.5</a>, and <a href="#">8.8.6</a>.</p>	<p><a href="#">34 CFR §303.422(c)</a> <a href="#">Operations Guide 8.8.3</a></p>
	<p>8.8.4 A <a href="#">surrogate parent</a> shall not be:</p> <p>A. An employee of the <a href="#">ESSO</a>,</p> <p>B. An employee of the Local Early Steps (<a href="#">LES</a>),</p> <p>C. An employee of any public agency,</p> <p>D. A person providing <a href="#">early intervention services</a>, education, care, or other services to the infant or toddler or any <a href="#">family</a> member of the infant or toddler, or</p> <p>E. A person who otherwise qualifies as a surrogate parent is not an employee of the Early Steps State Office solely because he or she is paid by the ESSO to serve as a surrogate parent.</p>	<p><a href="#">U.S.C. §1439(a)(5)</a> <a href="#">34 CFR §303.422(d)</a> <a href="#">34 CFR §303.422(e)</a></p>
	<p>8.8.5 Minimum qualifications for a <a href="#">surrogate parent</a>:</p> <p>A. An individual over 18 years of age who is a citizen of the United States and a resident of the State of Florida,</p> <p>B. Knowledge, skills, and experience demonstrated by successful completion of training to ensure adequate representation of the child, and</p> <p>C. Appropriately trained using the materials developed and/or approved by the Bureau of Exceptional Education and Student Services.</p>	<p><a href="#">Operations Guide 8.8.5</a></p>
	<p>8.8.6 The <a href="#">LES</a> shall ensure that a person selected as a <a href="#">surrogate parent</a>:</p> <p>A. Has no personal or professional interest that conflicts with the interests of the child he or she represents, and</p> <p>B. Has knowledge and skills that ensure adequate representation of the child.</p>	<p><a href="#">34 CFR §303.422(d)(2)(ii)</a> <a href="#">34 CFR §303.422(d)(2)(iii)</a> <a href="#">Operations Guide 8.8.6</a></p>
	<p>8.8.7 A <a href="#">surrogate parent</a> has the same rights as a <a href="#">parent</a> under <a href="#">Part C of IDEA</a>.</p>	<p><a href="#">34 CFR §303.422(f)</a> <a href="#">Operations Guide 8.8.7</a></p>



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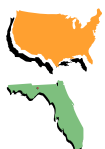
8.9.0 Right to Mediation		
	Policy	Reference/Related Documents
	8.9.1 The <a href="#">ESSO</a> will ensure that mediation procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a due process, to resolve such disputes through a mediation process at any time.	<a href="#">U.S.C. §1415(e)(1)</a> <a href="#">U.S.C. §1439(a)(8)</a> <a href="#">34 CFR §303.431</a> <a href="#">34 CFR §303.430(b)</a> <a href="#">Operations Guide 8.9.1</a>
	8.9.2 Reserved	
	8.9.3 A. The mediation process: <ol style="list-style-type: none"> <li>1. Is voluntary on the part of both parties,</li> <li>2. Is not used to deny or delay a <a href="#">parent's</a> right to a due process hearing or deny any other rights afforded under <a href="#">IDEA, Part C</a>, and</li> <li>3. Is conducted by a <a href="#">qualified</a> and impartial mediator who is trained in effective mediation techniques.</li> </ol>	<a href="#">U.S.C. §1415(e)(2)(A)(i)</a> <a href="#">U.S.C. §1415(e)(2)(A)(ii)</a> <a href="#">U.S.C. §1415(e)(2)(A)(iii)</a> <a href="#">34 CFR §303.431(b)(1)</a> <a href="#">Operations Guide 8.9.3</a>
	8.9.4 The <a href="#">ESSO</a> will maintain a list of <a href="#">qualified</a> mediators who are knowledgeable in the laws and regulations relating to the provision of early intervention services.	<a href="#">U.S.C. §1415(e)(2)(C)</a> <a href="#">34 CFR §303.431(b)(2)(i)</a>
	8.9.5 In order to mediate, the <a href="#">parent(s)</a> and the <a href="#">LES</a> representative will complete and sign <a href="#">Form CMS-ES 1067 Request for Mediation</a> . The form is sent to the address below and upon receipt, the mediator is assigned.  Florida Department of Health Children's Medical Services, Early Steps State Office 4052 Bald Cypress Way, Bin A06 Tallahassee, Florida 32399-1707	<a href="#">Request for Mediation-Spanish</a> <a href="#">Request for Mediation-Creole</a>
	8.9.6 Upon receipt of <a href="#">Form CMS-ES 1067 Request for Mediation</a> , a mediator is selected on a random (e.g. a rotation) basis from the list of <a href="#">qualified</a> mediators referenced in <a href="#">Policy Handbook 8.9.4</a> . If a mediator is not selected at random, both parties must	<a href="#">34 CFR §303.431(b)(2)(ii)</a> <a href="#">Request for Mediation-Spanish</a> <a href="#">Request for Mediation-Creole</a>



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	be involved in the selection of the individual who will mediate.	
	<p>8.9.7</p> <p>A. The mediator:</p> <ol style="list-style-type: none"> <li>1. May not be an employee of the <a href="#">ESSO</a>, a <a href="#">Local Early Steps</a> or any other entity involved in the provision of <a href="#">early intervention services</a> or care of the child, and</li> <li>2. Must not have a personal or professional conflict of interest.</li> </ol> <p>B. A person who otherwise qualifies as a mediator is not an employee of the ESSO solely because s/he is paid by the agency to serve as a mediator.</p>	<p><a href="#">Operations Guide 8.9.7</a></p> <p><a href="#">U.S.C. §1415(e)</a></p> <p><a href="#">U.S.C. §1439(a)(8)</a></p> <p><a href="#">34 CFR §303.431(c)</a></p>
	8.9.8 The <a href="#">ESSO</a> will bear the cost of the mediation process, including the cost of the mediation session.	<p><a href="#">U.S.C. §1415(e)(2)(D)</a></p> <p><a href="#">34 CFR §303.431(b)(3)</a></p>
	8.9.9 A mediation session will be scheduled in a timely manner, within 21 calendar days of the receipt of a request signed by both parties and will be held in a location that is convenient to the parties in the dispute.	<p><a href="#">U.S.C. §1415(e)(2)(E)</a></p> <p><a href="#">34 CFR §303.431(b)(4)</a></p>
	8.9.10 Any agreement reached by the parties to the dispute in a mediation process will be set forth in a legally binding written mediation agreement, using <a href="#">Form CMS-ES 1068 Mediation Agreement</a> and will be signed by the parties.	<p><a href="#">U.S.C. §1415(e)(2)(F)</a></p> <p><a href="#">34 CFR §303.431(5)</a></p> <p><a href="#">391.308(2)(j), F.S.</a></p> <p><a href="#">Operations Guide 8.9.10</a></p> <p><a href="#">Form CMS-ES 1068 Mediation Agreement - Spanish</a></p> <p><a href="#">Form CMS-ES 1068 Mediation Agreement - Creole</a></p>
	8.9.11 The mediation agreement will include a confidentiality pledge stating, “discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal or State court. The agreement will be enforceable in any state court of competent	<p><a href="#">U.S.C. §1415(e)(2)(F)(i)</a></p> <p><a href="#">U.S.C. §1415(e)(2)(F)(iii)</a></p> <p><a href="#">U.S.C. §1415(e)(2)(G)</a></p> <p><a href="#">34 CFR §303.431(b)(5)(i)</a></p> <p><a href="#">34 CFR §303.431(b)(6)</a></p> <p><a href="#">34 CFR §303.431(b)(7)</a></p>



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	jurisdiction or in a U.S. District Court.”	
	8.9.12 The mediation agreement is signed by both the <a href="#">parent</a> and a representative of the <a href="#">LES</a> who has the authority to make decisions on behalf of the agency.	<a href="#">U.S.C. §1415(e)(2)(F)(ii)</a> <a href="#">34 CFR §303.431(b)(5)(ii)</a>
	8.9.13 Reserved	
	8.9.14 Video or tape recording will not be allowed during the mediation session.	
	8.9.15 While either party may call someone for advice or information, no one can fully participate in the mediation session by telephone.	
<b>8.10.0 Right to a Due Process Hearing</b>		
Policy		Reference/Related Documents
	8.10.1 <a href="#">Parents</a> , early intervention providers, or <a href="#">LESS</a> have the right to file a due process hearing request when there is a disagreement regarding the proposal to initiate or change, or refusal to initiate or change the <a href="#">identification</a> , <a href="#">evaluation</a> , or <a href="#">placement</a> of the infant or toddler with a disability, the provision of appropriate <a href="#">early intervention services</a> to the infant or toddler with a disability and his or her family, or to challenge information in <a href="#">Early Steps record</a> to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.	<a href="#">U.S.C. §1439(a)(1)</a> <a href="#">34 CFR §303.411</a> <a href="#">34 CFR §303.430(d)(2)</a> <a href="#">34 CFR §303.440(a)</a> <a href="#">34 CFR §303.441(c)</a> <a href="#">Due Process Hearing Brochure for Parents - English</a> <a href="#">Due Process Hearing Brochure for Parents - Spanish</a> <a href="#">Due Process Hearing Brochure for Parents - Creole</a>
	8.10.2 When a due process hearing request is received or a <a href="#">parent</a> requests the information, the <a href="#">LES</a> shall inform the parent of any free or low cost legal and other relevant advocacy services which are available.	<a href="#">U.S.C. §1439(a)(1)</a> <a href="#">34 CFR §303.440(b)</a> <a href="#">Operations Guide 8.10.2</a> <a href="#">Florida Legal Services, Inc.</a>
	8.10.3 When a due process hearing is initiated, the <a href="#">ESSO</a> shall inform the <a href="#">parents</a> of the availability of mediation.	<a href="#">U.S.C. §1439(a)(8)</a> <a href="#">34 CFR §303.442(a)(3)(ii)</a> <a href="#">Operations Guide 8.10.3</a>
	8.10.4 The due process hearing will be conducted by a hearing officer in the Department of Management Services, Division of Administrative Hearings.	<a href="#">34 CFR §303.443(a)</a> <a href="#">34 CFR §303.443(b)</a>



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	8.10.5 The party submitting a due process hearing request, or the attorney representing the party, must ensure the other party receives a copy of the due process request and must remain confidential.	<a href="#">34 CFR §303.441(a)(1)</a>
	<p>8.10.6</p> <p>A. The due process hearing requests must be filed with the Florida Department of Health, Children's Medical Services, Early Steps State Office at:</p> <p style="padding-left: 40px;">IDEA, Part C Coordinator Florida Department of Health Children's Medical Services Early Steps State Office 4052 Bald Cypress Way, BIN # A06 Tallahassee, FL 32399-1707</p> <p>B. If the request is submitted to the <a href="#">Local Early Steps</a>, the LES must forward the hearing request, within 24 hours, to the <a href="#">ESSO</a>.</p> <p>C. ESSO will send a copy of all hearing requests and related written materials to the Department of Health, Office of the General Counsel.</p> <p>D. The Office of the General Counsel will forward copies of the request and all correspondence to the Department of Management Services, Division of Administrative Hearings (DOAH).</p>	<a href="#">34 CFR §303.441(a)(2)</a>
	<p>8.10.7 A due process hearing request must include the following:</p> <p>A. Name of the child,</p> <p>B. The address of the residence of the child; (or available contact information in the case of a homeless child,</p> <p>C. The name of the early intervention provider serving the child,</p> <p>D. 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, and</p> <p>E. A proposed resolution of the problem to the extent known and available to the party at the time.</p>	<a href="#">34 CFR §303.441(b)</a> <a href="#">34 CFR §303.441(c)</a>
	<p>8.10.8</p> <p>A. The hearing officer will determine whether the due process hearing request meets the requirements in</p>	<a href="#">34 CFR §303.441(d)(1)</a> <a href="#">34 CFR §303.441(d)(2)</a>






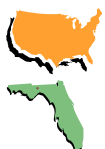
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	<p><a href="#">Policy 8.10.7.</a></p> <p>B. When the hearing request meets the requirements in <a href="#">Policy 8.10.7</a>, the hearing officer will deem the hearing request sufficient unless either party files a sufficiency challenge and the hearing officer finds the request insufficient per the timelines in <a href="#">Policy 8.10.8.C</a>.</p> <p>C. Within 15 days of the due process hearing request, either party in the due process hearing may file a written claim with the hearing officer that the request is legally insufficient. Within 5 days of receipt of the claim, the hearing officer will issue a ruling on the sufficiency of the hearing request.</p>	
	<p>8.10.9</p> <p>A. A party may amend a due process hearing request if:</p> <ol style="list-style-type: none"> <li>1. The other party consents in writing to the amendment and is given the opportunity to resolve the due process issues through a resolution meeting, or</li> <li>2. The hearing officer grants permission not later than five days before the due process hearing is scheduled.</li> </ol> <p>B. If a party files an amended due process hearing request, the 30-day timeline for the resolution meeting begins again with the filing of the amended due process hearing request.</p>	<p><a href="#">34 CFR §303.441(d)(3)</a>  <a href="#">34 CFR §303.441(d)(4)</a>  <a href="#">Policy 8.10.24</a></p>
	<p>8.10.10</p> <p>A. If the <a href="#">parent</a> has not been provided prior written notice, the other party will send the parent and <a href="#">ESSO</a> a response in writing within 10 days of receipt that includes:</p> <ol style="list-style-type: none"> <li>1. An explanation of why an action was proposed or refused in the due process hearing request,</li> <li>2. A description of other options that the <a href="#">IFSP team</a> considered and the reasons why those options were rejected,</li> <li>3. A description of each <a href="#">evaluation</a> procedure, <a href="#">assessment</a>, record, or report used as the basis for the proposed or refused action, and</li> <li>4. A description of the other factors relevant</li> </ol>	<p><a href="#">34 CFR §303.441(e)</a>  <a href="#">34 CFR §303.441(f)</a></p>










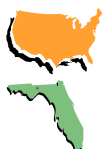
	<p>to the proposed or refused action.</p> <p>B. This response does not preclude ESSO from asserting that the parent's due process hearing request was insufficient, per <a href="#">Policy 8.10.8</a>.</p> <p>C. If there are any issues in the due process request that were not addressed in A. above, then the other party will specifically address within 10 days of receipt each issue raised in the due process hearing request.</p>	
	<p>8.10.11 Any <a href="#">parent</a> involved in a due process hearing has the right to:</p> <p>A. Be accompanied and advised by counsel and/or by individuals with special knowledge or training with respect to <a href="#">early intervention services</a> for infants and toddlers with disabilities at their own expense,</p> <p>B. Present evidence and confront, cross-examine, and compel the attendance of witnesses,</p> <p>C. Prohibit the introduction of evidence at the hearing that has not been disclosed to them at least 5 business days before the hearing,</p> <p>D. Obtain one written or electronic (based on the preference of the family) verbatim transcription of the hearing at no cost,</p> <p>E. Obtain written or electronic (based on the preference of the family) findings of fact and decisions at no cost, and</p> <p>F. Open the hearing to the public (the hearing will be closed to the public unless the parties request that it be open).</p>	<p><a href="#">34 CFR §303.444(a)</a> <a href="#">34 CFR §303.444(c)</a></p>
	<p>8.10.12 The parties involved in the due process hearing must disclose all <a href="#">evaluations</a> completed by the hearing date and recommendations of evaluations that the party intends to use at the hearing at least 5 business days before the proceeding. The hearing officer may bar any party that fails to comply without the consent of the other party.</p>	<p><a href="#">34 CFR §303.444(b)</a></p>
	<p>8.10.13 The party requesting a due process hearing may not raise issues at the due process hearing that were not raised in the due process hearing request</p>	<p><a href="#">34 CFR §303.443(d)</a></p>



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	unless the other party agrees.	
	8.10.14 Any due process hearing and each review including verbal arguments must be carried out at a time and place that is reasonably convenient to the <a href="#">parents</a> and the child involved.	<a href="#">34 CFR §303.447(d)</a>
	8.10.15 The due process hearing will be completed and findings mailed to each of the parties no later than 45 days after the expiration of the 30 day time period for a resolution meeting, unless a hearing officer grants a specific extension of time at the request of either party.	<a href="#">34 CFR §303.440(c)</a> <a href="#">34 CFR §303.447(a)</a> <a href="#">34 CFR §303.447(b)</a> <a href="#">34 CFR §303.447(c)</a>
	8.10.16 During the pendency of any due process hearing, unless <a href="#">ESSO</a> and the <a href="#">parents</a> agree, the <a href="#">LES</a> must continue to provide the appropriate early intervention services in the setting identified on the IFSP that is consented to by the parents or if applying for initial services, shall provide the early intervention services not in dispute as authorized on the child's <a href="#">IFSP</a> .	<a href="#">U.S.C. §1439(b)</a> <a href="#">34 CFR §303.430(e)</a>
	8.10.17 The due process hearing must be requested within 2 years of the date the <a href="#">parent</a> , <a href="#">LES</a> , or provider knew (or should have known) about the alleged action forming the basis of the request.	<a href="#">U.S.C. §1415(b)(6)(B)</a> <a href="#">U.S.C. §1415(f)(3)(C)</a> <a href="#">U.S.C. §1439(a)(1)</a> <a href="#">34 CFR §303.440(a)(2)</a> <a href="#">34 CFR §303.443(e)</a>
	8.10.18 The two-year timeline for the due process hearing will not apply if the <a href="#">parent</a> was prevented from requesting a hearing due to misrepresentations by the <a href="#">LES</a> or the withholding of information from the parent by the LES.	<a href="#">U.S.C. §1415(f)(3)(D)(i)</a> <a href="#">U.S.C. §1415(f)(3)(D)(ii)</a> <a href="#">U.S.C. §1439(a)(1)</a> <a href="#">34 CFR §303.443(f)</a>
	8.10.19 <a href="#">ESSO</a> will make the findings and decisions of due process hearing available to the public after deleting <a href="#">personally identifiable information</a> .	<a href="#">34 CFR §303.445(d)</a>
	8.10.20 A decision in a due process hearing is considered final unless a party brings civil action.	<a href="#">34 CFR §303.446(a)</a> <a href="#">Policy Handbook 8.10.30</a>
	8.10.21 A <a href="#">parent</a> may file a separate due process request on an issue separate from a due process request that has already been filed.	<a href="#">U.S.C. §1415(o)</a> <a href="#">34 CFR §303.445(c)</a>



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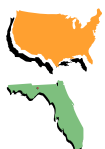
	<p>8.10.22</p> <p>A. The hearing officer will conduct hearings in a fair and impartial manner. The hearing officer must:</p> <ol style="list-style-type: none"> <li>1. Have knowledge of and the ability to understand the provisions of <a href="#">IDEA, Part C</a>, applicable federal and state regulations pertaining to IDEA, Part C, and legal interpretations by federal and state courts,</li> <li>2. Possess the knowledge and ability to conduct hearings and render and write decisions in accordance with appropriate, standard legal practice,</li> <li>3. Not be an employee of the <a href="#">ESSO</a>, a <a href="#">Local Early Steps</a> or any other entity involved in the provision of <a href="#">early intervention services</a> or care of the child, and</li> <li>4. Be a person who otherwise qualifies as a hearing officer is not an employee of the <a href="#">ESSO</a> solely because the person is paid by ESSO to implement the hearing process.</li> </ol> <p>B. ESSO will keep a list of the hearing officers and their qualifications.</p>	<p><a href="#">34 CFR §303.443(c)</a></p> <p><a href="#">Operations Guide 8.10.22</a></p>
	<p>8.10.23</p> <p>A. Hearing decisions must be based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child was not appropriately identified, evaluated, placed, or provided early intervention services only if it:</p> <ol style="list-style-type: none"> <li>1. Impeded the child's right to <a href="#">identification</a>, <a href="#">evaluation</a>, and <a href="#">placement</a> or provision of early intervention services for the child and family,</li> <li>2. Significantly impeded the parent's opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for the child and family, or</li> <li>3. Caused a deprivation of developmental</li> </ol>	<p><a href="#">34 CFR §303.445(a)</a></p>









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	benefit.  B. This does not preclude a hearing officer from ordering <a href="#">ESSO</a> , the <a href="#">LES</a> , or provider to comply with the procedural safeguards requirements.	
	8.10.24  A. Within 15 days of <a href="#">ESSO's</a> receipt of a due process hearing request, and prior to the initiation of a due process hearing, ESSO must convene a resolution meeting with the <a href="#">parent</a> of the child and the relevant team member(s) to discuss the due process hearing request, so that ESSO has the opportunity to resolve the dispute that is the basis for the request. The resolution meeting must include:  1. The parent of the child,  2. Relevant member or members of the <a href="#">IFSP team</a> who have specific knowledge of the facts identified in the due process request, as determined by the parent and ESSO, and  3. A representative of ESSO who has decision-making authority on behalf of the agency.  B. Other parties may not bring an attorney unless the parent is accompanied by an attorney.  C. The resolution meeting may not occur if the parents and ESSO agree in writing to waive the meeting or agree to mediation.	<a href="#">34 CFR §303.442(a)</a>
	8.10.25 The due process hearing may occur if <a href="#">ESSO</a> has not resolved the issues addressed in the due process hearing request to the satisfaction of the parties via resolution meeting within 30 days of receipt of the request. The 45-day timeline for the due process hearing begins after the 30-day timeline for the resolution meeting.	<a href="#">34 CFR §303.442(b)(1)</a> <a href="#">34 CFR §303.442(b)(2)</a>
	8.10.26 The failure of the <a href="#">parent</a> filing the due process to participate in a resolution meeting, unless both parties agree to waive the resolution meeting or seek mediation, will delay the timelines for the resolution process and a hearing until the resolution meeting is held. If <a href="#">ESSO</a> is unable to obtain the participation of the parent after reasonable efforts, ESSO may request the hearing officer to dismiss the	<a href="#">34 CFR §303.442(b)(3)</a> <a href="#">34 CFR §303.442(b)(4)</a>







	due process hearing request.	
	8.10.27 If <a href="#">ESSO</a> fails to hold or participate in a resolution meeting within 15 days of the receipt of the due process hearing request, the <a href="#">parent</a> may request the hearing officer to initiate the due process hearing timeline.	<a href="#">34 CFR §303.442(b)(5)</a>
	8.10.28 The 45-day timeline for the due process hearing starts after the following: A. Both parties agree to waive the resolution meeting, B. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible, or C. If both parties agree in writing to continue the mediation or resolution process at the end of the 30 day period, but later, the <a href="#">parent</a> or <a href="#">ESSO</a> withdraws from the mediation or resolution process.	<a href="#">34 CFR §303.442(C)</a>
	8.10.29 If a resolution to the dispute is reached at the resolution meeting, the parties must execute a legally binding agreement that is: A. Signed by both the <a href="#">parent</a> and <a href="#">ESSO</a> , and B. Enforceable in state court or competent jurisdiction or in a U.S. district court, C. Either party may void the agreement within 3 business days of execution.	<a href="#">34 CFR §303.442(d)</a> <a href="#">34 CFR §303.442(e)</a>
	8.10.30 Any party aggrieved by the findings of a due process hearing may bring civil action with respect to the issues in the due process hearing request in any state court or competent jurisdiction or in a U.S. district court. The U.S. district courts have jurisdiction of actions brought under 615 of IDEA without regard to the amount in controversy.	<a href="#">34 CFR §303.448(a)</a> <a href="#">34 CFR §303.448(d)</a>
	8.10.31 Parties involved in a due process hearing shall have 90 days from the date of the decision of the hearing officer to bring civil action.	<a href="#">34 CFR §303.448(b)</a>
	8.10.32 In a civil action, the court will: A. Receive the records of the due process hearing, B. Hear additional evidence at the request of a party, and	<a href="#">34 CFR §303.448(c)</a>



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	C. Grant the relief the court determines to be appropriate, based on the preponderance of the evidence.	
	8.10.33 The rights, procedures, and remedies available under the Constitution, Americans With Disabilities Act, title V of the Rehabilitation Act, and other federal laws protecting the rights of children with disabilities except that before filing civil action that is also available under 615 of IDEA, due process procedures must be exhausted to the same extent required had the action been brought under 61the IDEA.	<a href="#">34 CFR §303.448(e)</a>
	8.10.34 <a href="#">ESSO</a> may use mechanisms to seek enforcement of a written agreement resulting from a mediation or resolution meeting as long as those mechanisms are not mandatory and does not delay or deny the parents right to seek enforcement of the written agreement in a state court or competent jurisdiction or U.S. district court.	<a href="#">34 CFR §303.449</a>
<b>8.11.0 Right to File a Complaint</b>		
Policy		Reference/Related Documents
	8.11.1 Reserved	
	8.11.2 The <a href="#">ESSO</a> will provide procedures for resolving any complaint, including a complaint filed by an organization or individual from another state, alleging that an agency or service provider has violated a requirement of <a href="#">IDEA, Part C</a> and implementing regulations.	<a href="#">34 CFR §303.432(a)(1)</a> <a href="#">34 CFR §303.430(c)</a> <a href="#">34 CFR §303.417</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a>
	8.11.3 A. All formal written complaints must be submitted to the Department of Health, Children's Medical Services <a href="#">Early Steps State Office</a> at the following address:  IDEA, Part C Coordinator Department of Health Children's Medical Services Early Steps State Office 4052 Bald Cypress Way, BIN# A06	<a href="#">34 CFR §303.434(a)</a> <a href="#">34 CFR §303.434(d)</a> <a href="#">Operations Guide 8.11.3</a>



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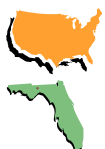
	Tallahassee, FL 32399-1707	
	B. The party filing the complaint must forward a copy of the complaint to the public agency or service provider serving the child at the same time the party files the complaint with <a href="#">ESSO</a> .	
	8.11.4 All <a href="#">LES</a> must inform <a href="#">parents</a> , other interested individuals, and organizations in the service area of the state's complaint procedures.	<a href="#">U.S.C. §1415(b)(8)</a> <a href="#">U.S.C. §1435(a)(10)(D)</a> <a href="#">34 CFR §303.432(a)(2)</a>
	8.11.5 A formal written complaint is a signed letter that includes the following:  A. A statement that <a href="#">ESSO</a> , a public agency, or service provider has violated requirements of <a href="#">IDEA, Part C</a> or the regulations,  B. The facts on which the complaint is based,  C. The signature and contact information for the complainant,  D. The name and address of the residence of the child (if alleging violations with respect to a specific child),  E. The name of the provider serving the child (if alleging violations with respect to a specific child),  F. A description of the nature of the problem of the child, including facts relating to the problem (if alleging violations with respect to a specific child),  G. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed, and  H. An allegation of a violation that occurred within one year prior to the date the complaint is received.	<a href="#">34 CFR §303.434(a)</a> <a href="#">34 CFR §303.434(b)</a> <a href="#">34 CFR §303.434(c)</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - English</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Spanish</a> <a href="#">Summary of Procedural Safeguards - IDEA, Part C - Creole</a> <a href="#">Operations Guide 8.11.5</a>
	8.11.6 The <a href="#">LES</a> must send written documentation that meets the criteria of a formal written complaint, as specified in <a href="#">Policy Handbook 8.11.5</a> , to the <a href="#">ESSO</a> immediately but no later than one working day after receipt at the LES office.	<a href="#">Operations Guide 8.11.6</a>
	8.11.7 After the complaint letter has been received, or during the initial conversation in which receipt of the complaint is acknowledged, formal mediation will be offered by the <a href="#">ESSO</a> .	<a href="#">34 CFR §303.433(a)(3)(ii)</a> <a href="#">Operations Guide 8.11.7</a>



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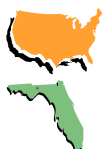
	8.11.8 The <a href="#">ESSO</a> will investigate the complaint by reviewing all relevant information and making an independent determination as to whether ESSO, a public agency, or service provider is violating or has violated a requirement of <a href="#">IDEA, Part C</a> or its implementing regulations.	<a href="#">34 CFR §303.433(a)(4)</a>
	8.11.9 The <a href="#">ESSO</a> will decide, based on the issues and circumstances surrounding the complaint, whether to carry out an independent on-site investigation.	<a href="#">34 CFR §303.433(a)(1)</a>
	8.11.10 A. The <a href="#">ESSO</a> will give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.  B. Upon receipt of a complaint that meets the requirements in <a href="#">8.11.5</a> , ESSO will send a complaint acknowledgement letter to the complainant and LES or provider that includes the complainant's proposed resolution(s).  C. The LES or provider will have the opportunity to respond to the complaint, including the proposed resolution(s) by the complainant, prior to an investigation by the ESSO.	<a href="#">34 CFR §303.433(a)(2)</a> <a href="#">34 CFR §303.433(a)(3)</a> <a href="#">34 CFR §303.433(a)(3)(i)</a>
	8.11.11 A written preliminary report will be issued to the complainant and the <a href="#">LES</a> , public agency or service provider by the <a href="#">ESSO</a> within 35 calendar days of receipt of the complaint. The written report will address each allegation in the complaint. The preliminary report will contain (1) Background information and (2) Findings of Fact.	<a href="#">Operations Guide 8.11.11</a>
	8.11.12 A final report and written decision will be issued to the complainant, and other parties including the <a href="#">LES</a> , public agency or service provider by the <a href="#">ESSO</a> within 60 calendar days after a complaint is filed, unless exceptional circumstances exist in respect to a particular complaint, and those circumstances warrant an extension of the timeline or the parties involved agree to extend the time to engage in mediation.	<a href="#">34 CFR §303.433(a)</a> <a href="#">34 CFR §303.433(b)(1)</a> <a href="#">Operations Guide 8.11.12</a>
	8.11.13 Reserved	



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	<p>8.11.14 The final report will contain:</p> <ul style="list-style-type: none"> <li>A. Background information,</li> <li>B. Findings of fact; addressing each allegation of the complaint,</li> <li>C. Conclusions,</li> <li>D. A basis for the final decision, and</li> <li>E. Corrective action(s) if any.</li> </ul>	<a href="#">34 CFR §303.433(a)(5)</a>
	<p>8.11.15 After the final decision is issued, the <a href="#">ESSO</a> will monitor implementation of corrective actions to achieve compliance, and negotiate and provide technical assistance related to the final decision, as necessary.</p>	<a href="#">U.S.C. §1435(a)(10)</a> <a href="#">34 CFR §303.433(b)(2)</a> <a href="#">Operations Guide 8.11.15</a>
	<p>8.11.16</p> <ul style="list-style-type: none"> <li>A. If a written complaint is received that is also the subject of a due process hearing or contains multiple issues, of which one or more are part of that hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing.</li> <li>B. Any issue in a complaint that is not a part of the due process action must be resolved within the 60-calendar-day timeline using the established complaint procedures.</li> </ul>	<a href="#">34 CFR §303.433(c)</a>
	<p>8.11.17 For any issue raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding on that issue and the <a href="#">ESSO</a> must inform the complainant to that effect.</p>	<a href="#">34 CFR §303.433(c)(2)</a>
	<p>8.11.18 A complaint alleging a <a href="#">ESSO</a>, a public agency's or service provider's failure to implement a due process decision will be resolved by the <a href="#">ESSO</a>.</p>	<a href="#">34 CFR §303.433(c)(3)</a>
	<p>8.11.19 In resolving a complaint in which it finds a failure to provide appropriate services, the <a href="#">ESSO</a> must address:</p> <ul style="list-style-type: none"> <li>A. How to remediate the denial of those services, including, as appropriate, the awarding of compensatory services or other corrective actions appropriate to meet the needs of the child and the child's <a href="#">family</a>, and</li> <li>B. Appropriate future provision of services for all</li> </ul>	<a href="#">34 CFR §303.432(b)</a>



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	infants and toddlers with disabilities and their families.	
	8.11.20 If the <a href="#">LES</a> or provider accepts the proposed resolution(s) outlined in the complaint letter, the LES or provider must send a letter to <a href="#">ESSO</a> confirming the acceptance of the complainant's proposal.	<a href="#">34 CFR §303.433(a)(3)(i)</a>
	8.11.21 If the <a href="#">LES</a> or provider proposes resolution(s) other than the complainant's proposed resolution(s), the LES or provider must send a letter to <a href="#">ESSO</a> outlining their proposed resolution(s).	<a href="#">34 CFR §303.433(a)(3)(i)</a>
	8.11.22 In considering whether to accept the <a href="#">LES</a> or provider's proposal in <a href="#">8.11.21</a> , <a href="#">ESSO</a> will take into account whether the proposal will correct the issue and consists of actions ESO would require as corrective action if the LES or provider were found in violation of a state or federal statute or regulation.	<a href="#">34 CFR §303.433(a)(3)(i)</a>
	<p>8.11.23</p> <p>A. If the <a href="#">LES</a> or provider accepts the proposed resolution(s) outlined in the complaint letter per <a href="#">8.11.20</a> or <a href="#">ESSO</a> determines that the LES or provider's proposed alternate resolution(s) in <a href="#">8.11.21</a> constitutes appropriate and effective corrective action to address the allegations, within 60 days of the date that the complaint was filed, subject to allowable extensions, ESO will develop a Complaint Resolution Report which addresses each allegation in the complaint and contains:</p> <ol style="list-style-type: none"> <li>1. Background,</li> <li>2. Findings of fact related to the LES or provider's acceptance of the complainant's proposed resolution,</li> <li>3. Conclusion that ESO finds the proposal acceptable, and the final decision that the complaint is resolved, and</li> <li>4. Actions to be completed to bring the complaint to closure, including timelines.</li> </ol> <p>B. The complaint investigation will not proceed.</p>	<a href="#">34 CFR §303.433(a)(3)(i)</a>
	8.11.24 If <a href="#">ESSO</a> determines that the <a href="#">LES</a> or provider's proposed resolutions in <a href="#">8.11.21</a> does not	<a href="#">34 CFR §303.433(a)(3)(i)</a>



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	constitute appropriate and effective corrective action to address the allegations, ESSO will notify the LES or provider that the proposal is not accepted and the complaint investigation will proceed.	
	<p>8.11.25</p> <p>A. The <a href="#">ESSO</a> will monitor the completion of the actions in the Complaint Resolution Report in the same manner as complaint corrective actions are monitored.</p> <p>B. When ESSO receives documentation that all actions in the Report have been completed, the complaint file will be closed, and the parties will be notified in writing.</p>	<a href="#">34 CFR §303.433(a)(3)(i)</a>



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