



*The goal of early intervention is to work with families in a Parent-Professional Partnership, so talking openly can address most concerns.*

*If you have a concern or a question, share it with the other members of your IFSP team, your service coordinator, or the EI Program Manager.*

**My Service Coordinator is:**

\_\_\_\_\_

phone: \_\_\_\_\_

fax: \_\_\_\_\_

e-mail: \_\_\_\_\_

**First Connections Program Coordinator**

phone: 501-682-8703

fax: 501-683-4745

You have the right to disagree. If your issue still isn't satisfactorily resolved after talking with your IFSP team, your service coordinator, or the Part C Coordinator, or if you disagree with a decision that has been made, the law provides timely resolution of the disagreement by one (or all) of these methods:

- a formal written complaint
- a facilitated IFSP meeting
- mediation
- due process hearing

**FILING A COMPLAINT:** A parent or other individual or an organization may file a written, signed complaint with the Arkansas Department of Education (*see next page "Filing a Complaint"*) or the complaint may be made in person by recorded statement (deposition). **The alleged violation must have occurred not more than one year before the date that the complaint is received** unless a longer period is reasonable because:

- (1) The alleged violation continues for that infant or toddler or other infants/toddlers
- (2) The complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by the public agency

The complaint must include:

- A. **Statement of the violation:** You do not have to know specifically what law was violated, but you must explain what you believe the State has done wrong, e.g. "The therapist did not follow my infant's/toddler's IFSP."
- B. **Facts upon which the allegation is based:** Describe what actually happened to lead you to believe the State has violated the law, for example, "My infant's/toddler's IFSP says he will receive 30 minutes of therapy per week, but the therapist stays for only 15-20 minutes for each visit."
- C. **Proposed Resolution:** What you think would be a reasonable solution to the problem.

NOTE: *During a dispute, the child continues to receive services currently provided on the IFSP unless First Connections and the parents agree otherwise. If applying for initial services, the infant/toddler shall receive the services not in dispute.*

#### **DEFINITIONS:**

**Facilitated IFSP Meeting** is a voluntary, informal process where an impartial person (a mediator trained in special education law from Bowen Law School) participates in the IFSP team meeting to help everyone involved “be heard” so that the team can come up with a solution to resolve a disagreement. The IFSP meeting is conducted as usual and the result is an IFSP that meets the needs of the child that the team can agree to.

**Mediation** is a voluntary, informal process where an impartial person (the mediator) helps both parties come up with a solution to resolve a disagreement. The mediator draws up a contract that both parties have agreed to. Parents who choose mediation maintain more control of the process and still have the right to a due process hearing if their complaint cannot be settled through mediation.

A **due process hearing** is a formal legal process where an impartial person (a hearing officer) makes a decision about a disagreement after reviewing information/evidence from both sides. Parents may bring legal counsel or an early intervention specialist to accompany them. The decision of the hearing officer is binding for all parties.

#### **Filing a State Complaint**

First Connections  
4 Capitol Mall, Box 25  
Little Rock, AR 72201  
Phone: 501-682-4221  
Fax: 501-682-4313

**Facilitated IFSP Meeting** (no cost to the family)  
UALR Bowen School of Law

(501) 324-9939  
toll free: 1 (866)-273-3959

**Online request form:** <http://ualr.edu/law/clinical-programs/mediation/request-for-meditation-early-intervention/>

**Mediation Services** (no cost to the family)  
UALR Bowen School of Law

(501) 324-9939  
toll free: 1 (866)-273-3959

**online request form:** <http://ualr.edu/law/clinical-programs/mediation/early-intervention-meditation-faq/>

#### **Due Process Hearing Request**

First Connections  
phone number 501-682-4221  
Or online from the Arkansas Department of Education’s Special Education Web site: <https://dese.ade.arkansas.gov/Offices/special-education/dispute-resolution/due-process-hearings>

**FACILITATED IFSP MEETING (FIFSP) OR MEDIATION:** FIFSP or mediation can be requested as first options for resolution or during a complaint or due process hearing process when and/or if the parent believes that mediation might be more appropriate. The Early Intervention Mediation Program is designed for families of infants/toddlers with disabilities up to age three. A trained facilitator (in FIFSP) or mediator (in mediation) works to help parents, providers, and service coordinators talk about the infant’s/toddler’s needs in a meeting place that is nearby, convenient, and comfortable for both parties. Facilitators and Mediators use effective problem-solving focused on the needs of the infant/toddler to guide all involved to a speedy, mutually agreeable resolution. Parents cannot be required to use either facilitation or mediation. Facilitation or mediation may not be used to deny or delay a parent’s due process rights. FIFSP and mediation is provided at no cost to families, and both processes seek to foster and maintain productive partnerships between parents, providers, and service coordinators.

For more information call the Bowen School of Law’s Early Intervention Mediation Program at (501) 324-9939 or toll free (866) 273-3959 or visit their Web site: <http://ualr.edu/law/clinical-programs/mediation/early-intervention-meditation-faq/>. The Mediation Hearing Request form may be obtained from your service coordinator or the form may be completed online at: <http://ualr.edu/law/clinical-programs/mediation/request-for-meditation/>

**DUE PROCESS HEARING PROCEDURES:** Generally a request for a hearing involves a specific infant or toddler under the age of three who has a developmental disability or delay and the infant's/toddler's family. A parent may request a hearing to resolve a complaint regarding a disagreement with the IFSP team decision or the lead agency's decision regarding evaluation, eligibility, and placement or programming issues.

Any party seeking state level action on a disagreement falling into the categories noted above may file a request for a due process hearing by filing a Due Process Hearing Request form. This form may be obtained from:

Office of Special Education  
phone number 501-682-4221

Or, the form may be obtained online from the Arkansas Department of Education, Office of Special Education Web site: <https://dese.ade.arkansas.gov/Offices/special-education/dispute-resolution/due-process-hearings>

A letter of request is accepted by the Office of Special Education instead of a Due Process Hearing Request Form if all the pertinent information is included in the letter and the letter is signed by the person requesting a hearing. Information which must be incorporated into the letter includes:

- Name of the infant/toddler
- Date
- Indication of whether or not the parent wishes to participate in mediation
- Indication of whether the parent desires an open or closed hearing
- Description of the nature of the problem
- Proposed resolution of the problem
- Parent name and signature
- Parent contact information (address, phone)
- Name of legal (or other) representation
- Contact information for legal representation

The letter (or Hearing Request form) should be filed with:

Office of Special Education  
Phone Number: 501-682-4221  
Fax Number: 501-682-4313

*Or the letter or form can be mailed to:*

First Connections  
4 Capitol Mall, Box 25  
Little Rock, AR 72201

## **MAKING CHANGES OR CORRECTIONS TO A DUE PROCESS COMPLAINT:**

Parents are allowed to amend (or change) their due process complaint notice without having to file a new complaint and begin the process again. The hearing office may allow modification of a due process complaint:

- So long as the amendment does not prejudice the other party
- If the other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting
- At any time not later than five days before the due process hearing begins
- By allowing the parent to withdraw the complaint, and re-file

**PARENTS' RIGHTS IN ADMINISTRATIVE PROCEEDINGS:** Any hearing, due process action, or mediation will be conducted according to FERPA regulations to ensure that parent's rights are protected. If parents are involved in a complaint procedure they have the right to:

- Be accompanied and advised by an attorney retained at the parents' expense
- Be accompanied by an advocate and/or by individuals with special knowledge or training with respect to early intervention services for their infant or toddler
- Participate in the complaint resolution process at a time and place that is reasonably convenient for parents
- Receive notice of the date, time, and place of any meetings/hearings reasonably in advance
- Present evidence and call, confront, and cross-examine witnesses
- Prohibit the introduction of any evidence that has not been given to them at least five (5) days before the proceeding
- Obtain an exact written or electronic record of the proceeding
- Obtain written findings of facts and decisions

A resolution is required within sixty (60) days of receipt of a complaint but allows the due process hearing officer to grant time extensions at the request of either party in the event of exceptional circumstances such as:

- Pending evaluation/assessment
- Unavailability of witness/es
- Exceptional child/family circumstances

**APPOINTMENT OF AN IMPARTIAL PERSON:** An impartial person must be appointed to implement the complaint process. The *impartial person* appointed as due process hearing officer is an individual who:

- Is not an employee of First Connections or any agency or program involved in the provision of early intervention services or care of the infant or toddler
- Does not have a personal or professional interest that would conflict with his or her objectivity in this process
- Would not be considered an employee of an agency solely because the person is paid by the agency to implement the complaint resolution process
- Has knowledge of the provisions of Part C, and has knowledge about the needs of and services available for eligible infants/toddlers and their families
- Listens to the presentation of relevant viewpoints about the complaint, examines all information relevant to the issues, and seeks to reach a timely resolution of the complaint
  - Provides to parents a record of the proceedings, including a written decision.