



Accessing Early Childhood Special Education Services

LUNCH & LEARN
10/15/20



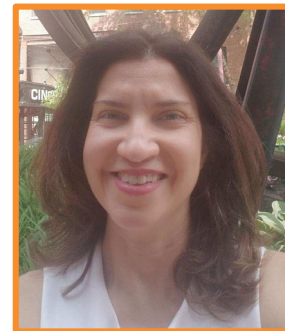
The Children's Mental Health Campaign (CMHC) is a statewide network that advocates for policy, systems, and practice solutions and shared responsibility among government and institutions to ensure that all children in Massachusetts have access to resources to prevent, diagnose, and treat behavioral health issues in a timely, effective, and compassionate way.

www.childrensmentalhealthcampaign.org

Presenters:



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Early Intervention, Background and In Practice

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MassAIMH
MASSACHUSETTS ASSOCIATION FOR
INFANT MENTAL HEALTH



Agenda

- MassAIMH & MSPCC
- What is Early Intervention?
- Who provides EI services?
- Who pays for EI?
- EI during the Covid-19 Pandemic



MSPCC MassAIMH Partnership

What : Massachusetts Society for the Prevention of Cruelty to Children (MSPCC) and Massachusetts Association for Infant Mental Health (MassAIMH) are working together in a collaborative partnership to establish, strengthen, and expand the diverse infant and early childhood mental health (IECMH) workforce

How : Through implementation of a credential, the Michigan Infant and Early Childhood Mental Health Endorsement® System.

Why : A robust, diverse, well-trained, and interdisciplinary workforce, dedicated to striving for social justice, is central to ensuring that all children in the Commonwealth have equitable access to infant and early childhood mental health (IECMH) supports and services that can help to not only mitigate negative impacts of adverse childhood experiences, but also support thriving social emotional wellness of our youngest in the state. The current IECMH workforce must be expanded and supported in order to meet this need.

To learn more about Endorsement®, visit massaimh.org/endorsement

What is Early Intervention?

- Program offered across Massachusetts for families with children under the age of three (birth to three)
- EI services are meant to help support families and caregivers and to enhance the development and learning of infants and toddlers.
- From the very beginning, EI process is collaborative, family centered and individualized to reflect the child and family's priorities, needs, strengths.. all within the context of their culture and community.



Who provides EI services?

- Services are provided by a team which includes the **child's family**.
- EI services may be provided by multidisciplinary team of providers like developmental specialist, physical therapist, speech-language pathologist, psychologist, occupational therapist, early childhood mental health provider, social worker, nurse, and other specialty service providers.
- The EI team believes in the **importance of relationships** and **equal partnerships with family members** and caregivers so that activities and strategies can occur through daily routines to enhance a child's development.

How do I make a Referral:

- The process is simple!
- Anyone can find a certified Early Intervention program

To find your local EI program:

- Call 1-800-905-8437 OR
- <https://www.massfamilyties.org/#EI>

Eligibility:

Any Massachusetts family with a child under three years of age may be eligible for EI services if the child:

- Is **not reaching age** - **appropriate milestones** in one or more areas of development.
- Is **diagnosed** with certain conditions that may result in a developmental delay.
- Has a medical or social history which may put the child **at risk** for a developmental delay.

Who pays for EI?

- There are **no** co-payments or deductibles or other costs to the family.
- The Massachusetts Department of Public Health, MassHealth and private health insurance cover EI services.



EI during the Covid 19 Pandemic

- EI is **active and available** to support your child's development and you through virtual visits!
- They are **accepting referrals** and available throughout the state to support families and children birth to three
- **Telehealth EI visits** to connect providers with parents or other caregivers in ways that support their child's learning and development through their daily activities and routines.

Transition from Early
Intervention to Early Childhood
Special Education During
COVID-19

Marisol Garcia, Esq.
Director of MHAP for Kids



health law **advocates**
Lawyers Fighting for Health Care Justice

HLA

Agenda

- MHAP for Kids
- Transition from Early Intervention to Early Childhood Special Education
- Action Steps for Families



MHAP for Kids

Project of Health Law Advocates, a Massachusetts not-for-profit that provides pro bono legal representation to low-income residents having trouble **accessing** or **paying for** needed medical services.


Staff attorneys in 7 Family Resource Centers serving Suffolk, Middlesex, Essex, Hampden, Worcester, Norfolk, and Bristol counties

- Represent parents, guardians, and students in **special education** and **school discipline** matters
- Secure community-based mental health services
- Collaborate with Dept. of Children and Families, Dept. of Mental Health, and Dept. of Developmental Services
- Assist with **health insurance coverage** for behavioral health services





What happens when a child receiving Early Intervention Services turns 3 years old?

Typically, Early Intervention programs discharge an eligible child from early intervention services when the child reaches their third birthday.



However, children may be found eligible to receive Early Childhood Special Education services from their local public-school district.





What are Early Childhood Special Education services?

Early Childhood Special Education (ECSE) services are designed for young children (aged 3-5) with educational disabilities who need specially designed instruction or related services and whose disability causes the children to be unable to participate in developmentally appropriate typical preschool activities or natural environments.



Natural environments can include childcare settings, playgrounds, play groups and library settings.



Does my school district provide Early Childhood Special Education services?

School districts are required by law to ensure that developmentally appropriate Early Childhood Special Education programs and services are available.

These programs and services ensure that all children with disabilities have a free and appropriate public education (FAPE) that is designed to meet their unique needs and enable them to make progress in acquiring knowledge and skills, improving social relationships, and learning to take action to meet their needs within the general education program.

What happens when a child transitions out of Early Intervention?

- For children transitioning out of EI, transition planning occurs as part of a child's **Individualized Family Service Plan (IFSP)**. The transition plan outlines the steps and services to be taken to support the child when the child turns three and transitions out of EI.
- EI program staff, with approval of the family will convene a **Transition Planning Conference (TPC)** that includes the family and a representative of the district when a child is 2 years and 9 months old. The purpose of the TPC is to review the child's EI services and development, discuss options and services for once the child leave EI, and establish or review transition activities.

What if a child needs continued services after age 3?

If EI program staff determine that a child may be eligible for Early Childhood Special Education, the EI program staff will, with consent from the child's parent, make a referral for special education evaluation to the child's school district of residence.

The referral is to be made no later than 90 days before the child's third birthday, although at the discretion of the EI program and in consultation with the parent, the EI program staff may make the referral as early as nine months before the child's third birthday.

[IDEA 34 C.F.R. § 303.209\(b\)](#)

When should the school district meet the child?

- Pursuant to the IDEA, a **representative from the child's school district** of residence is required to participate in the Transition Planning Conference (TPC).
- If a representative of the school district is not able to attend the TPC in-person, they can still participate through other means, including via telephone conference call. The TPC provides the school district with the opportunity to build positive relationships with the child's family and to learn more about the child's individual needs. [34 C.F.R. § 300.124\(c\)](#)

What are school districts required to do to ensure smooth transition from EI to special education?

When EI program staff determine that a child may be eligible for ECSE services and make a referral to the school district of residence, the school district will conduct an evaluation.

In such a case, **school districts shall evaluate children who are two and a half years of age and who receive services through an EI program.** The school district should conduct the initial evaluation in time to ensure that if the child is found eligible, special education services begin promptly at age three, as required. [603 CMR 28.04\(1\)\(d\)](#)

Can a school district screen out a referral from EI?

When EI refers a child for evaluation, **the school district is not permitted to decide that there is not enough information to justify the referral, nor may it conduct a "screening"** prior to acting on the referral.

IDEA [34 C.F.R. § 300.302](#)

When will the school district evaluate the child for early childhood special education?

Before it can conduct an evaluation to determine a child's ECSE eligibility, the school district must obtain a **signed *Evaluation Consent Form*** from the child's parent.

Timely consent to evaluate is a key element in facilitating IEP development and implementation for eligible children.

To ensure no gap in services, **the school district must have the signed *Evaluation Consent Form* no later than 60 days** before the child's third birthday.

How does a school district evaluate a child for Early Childhood Special Education services?

Upon receiving a referral from the EI program and the *Evaluation Consent Form* from the parent, the school district will arrange for an evaluation to determine eligibility for special education services.

School districts may choose to complete their own evaluations and assessments or may use evaluations and assessments completed by EI program staff if the reports are current and relevant to the eligibility determination, planning process, and IEP development.

The school district may test the child in all areas related to their suspected disability.

How does a school district determine eligibility for Early Childhood Special Education services?

Upon completion of the evaluations, the district will **convene a meeting with the child's guardian and the evaluators to determine the child's eligibility for special education.** School districts should, with the consent of the guardian, invite relevant EI program staff to this meeting.

If the child has been found eligible for special education, the school district will convene an IEP meeting to identify services to meet the child's educational needs and facilitate IEP development and implementation by the child's third birthday.

[IDEA 34 C.F.R. § 300.321\(a\)](#)

Special Education Timelines

When a student is referred for an evaluation, a school district must request parental consent for the evaluation **within 5 days of receiving the referral**.

The school district must complete its assessments **within 30 school working days** of receiving parental consent for testing.

Once the school's tests are complete, an educational Team meeting must be scheduled. This Team meeting must be scheduled **within 45 school working days** of receiving parental consent for testing.

Consent starts the timeline.

Can a school district use an IFSP instead of an IEP?

The IEP Team may decide, and the child's parent may consent, to use **an IFSP for the first year of the child's special education services** as the child turns three.

The IFSP must be developed in accordance with the requirements of state and federal law.

If the school district chooses to offer an IFSP instead of an IEP for the year that the child turns three, the school district must provide the child's parent with a detailed explanation of the differences between an IFSP and an IEP.¹⁶

Early Intervention During COVID-19

*Through a waiver from the federal Department of Education, Massachusetts extended EI services for students who turned 3 between March 15, 2020 and August 31, 2020. **This extension ends on October 15, 2020.*** In other words, some children older than age 3 were able to continue receiving EI services while awaiting testing from the school district.

Early Intervention providers may continue to offer families services through telehealth options, such as video, zoom, phone calls.



Wait, today is October 15, 2020...

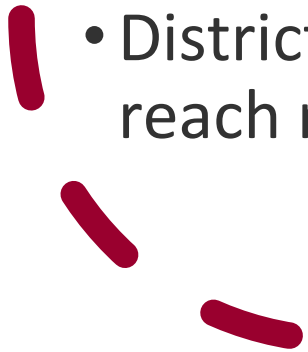
Because the waiver ends today, children whose evaluations and assessments were delayed due to extended school closures due to the COVID-19 pandemic will not receive timely Early Childhood Special Education Services.



Early Intervention Services will end and children will experience a gap in services.






Initial Evaluations and Team Meetings

- Expect a backlog of assessments and team meetings.
 - School districts **cannot have blanket policies precluding Team meetings or evaluations** from occurring.
 - Districts are encouraged to work with parents to reach mutually agreed upon extensions
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Evaluation and Meeting Disagreements

- If parent does not agree to the extension, the school district should document the reasons the district requires the extension in an N-1.
 - Schools and districts cannot require parents to waive procedural safeguards when agreeing to an extension or to have a virtual IEP meeting.
 - BSEA open for virtual mediations + hearings
 - PRS accepting complaints
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In the meantime, DESE guidance states:

Districts should prioritize in-person, full time regular education learning for:

- Students with disabilities
 - English learners
 - Students whose parents/caregivers report they do not have access to reliable internet or a suitable learning space
 - Students who are “significantly behind” academically
 - Students who were disengaged or struggled significantly during previous remote learning periods
 - **Early learners (preK-5)**
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Priority Student Comparison

SPECIAL EDUCATION PRIORITY	REGULAR EDUCATION PRIORITY
<p data-bbox="247 375 838 460">Pre-school students + students with significant and complex needs</p> <ul data-bbox="324 519 950 945" style="list-style-type: none"><li data-bbox="324 519 691 559">• “high needs” on IEP<li data-bbox="324 570 908 701">• Students who cannot engage in remote learning because of their disability;<li data-bbox="324 711 942 799">• Students who primarily use aided and augmentative communication;<li data-bbox="324 810 834 849">• Students who are homeless;<li data-bbox="324 860 950 899">• Students in foster/congregate care;<li data-bbox="324 910 645 945">• English Learners.	<ul data-bbox="993 371 1684 1002" style="list-style-type: none"><li data-bbox="993 371 1464 410">• Students with disabilities*<li data-bbox="993 432 1309 471">• English learners*<li data-bbox="993 493 1657 668">• Students whose parents/caregivers report they do not have access to reliable internet or a suitable learning space<li data-bbox="993 690 1684 777">• Students who are “significantly behind” academically<li data-bbox="993 799 1657 930">• Students who were disengaged or struggled significantly during previous remote learning periods<li data-bbox="993 952 1483 1002">• Early learners (preK-5)

Technology

- Districts “must ensure that every student has adequate access to technology to engage in remote learning,” including access to an appropriate device and adequate internet.

Special Education Remote Learning

- Remote learning for special education students **must** include:
 - A regular and consistent schedule of classes, interventions, services and therapies as required by the student's IEP, offered synchronously or asynchronously;
 - Structured learning time designed so that the student can access state standards; and
 - Frequent interactions with teachers and other staff members to ensure participation.

December 15, 2020

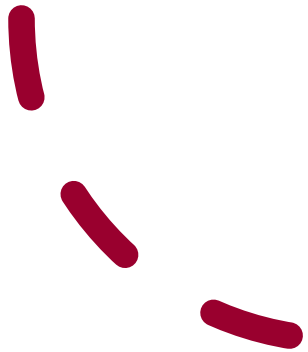
- Prioritize COVID-19 Compensatory Services (CCS) IEP meetings for:
 - Students with complex and significant needs
 - Pre-school students
 - Note: Some school districts are already disputing the need for these meetings.



New IEP Services

The *Advisory* states that any new special education supports that a student may need due to the COVID-19 school closure should be determined “in accordance with the requirements of state and federal special education law.”

Notably, the *Advisory* specifically mentions “mental health needs” as a possible “new area of disability-related need” for students.



For students with new or increased mental health needs related to the COVID-19 school closure, parents and providers may be able to effectively advocate for increased or new IEP services without the need for additional assessments, if they can provide the school with written evidence of the child’s mental health challenges during the shutdown.

Resolving Disagreements

- Problem Resolution System
- Mediation
- Due Process Request

Action Items for Families

1. Communicate, communicate, communicate (**in writing**)!
2. Keep track of when services are not working, or are not available
3. Communicate barriers to engagement right away (and repeatedly), in writing
4. Document attempts to communicate with school staff and resolve issues
5. Document learning and behavioral regressions
6. Contact a PRS specialist and/or file a PRS complaint at DESE

Dispute Resolution for Families

1. Request an IEP meeting in writing re: to determine eligibility or compensatory services
2. Request an independent evaluation, through the student's health insurance
3. File a PRS complaint
4. Request mediation through the BSEA

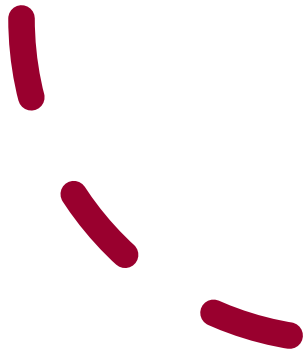


Most Important Takeaway

- **CHILD FIND MANDATE:** federal and state law requires school districts to locate and evaluate all children ages 0-22 that may have a disability and require special education. COVID-19 has not changed this responsibility.
 - EI providers **should still make special education referrals to school districts** even if the school district is doing a ‘fully remote’ or ‘hybrid’ learning model for the 2020-2021 school year.
 - <https://sites.ed.gov/idea/regs/b/b/300.111>



Where should I call with questions about my child?

- Contact your local Family Resource Center: www.frcma.org
 - Call MHAP for Kids' intake line at 617-275-2919
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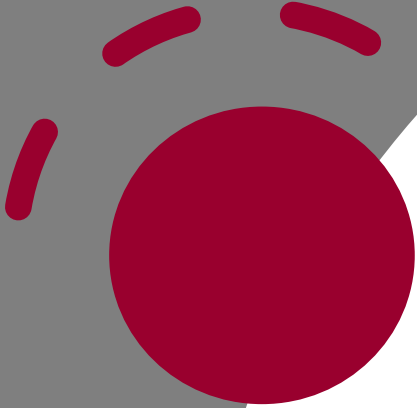
Resources

DESE Early Childhood Education www.doe.mass.edu/sped/ecse

These [Frequently Asked Questions \(FAQ\)](#) and answers on transitions from Early Intervention to Special Education were developed by EEC, DPH, and the DESE.

Massachusetts School District Special Education Contacts

www.mass.gov/service-details/resources-for-educators-caring-for-children-with-special-needs



Questions?