

Hearing Summary Report

Hearing Date: (01/03/201	.9 Today's Date : 03/01/2019	
Rule Numbers:	Rescind: New:	5123:2-10-01 5123-10-01, 5123-10-02, 5123-10-03, and 5123-10-04	
If no comments	at hearin	g, please check the box.	

List organizations or individuals giving or submitting testimony before, during or after the public hearing and indicate the rule number(s) in question.

5123-10-02 (specifically regarding access to Early Intervention services for children with elevated blood lead level)

- David T. Abbott, Executive Director, The George Gund Foundation
- Mitchell Balk, President, Mt. Sinai Health Care Foundation
- Patricia Barnes, Executive Director, Ohio Healthy Homes Network
- Gloria Blevins, MMG, SHRM-CP, President, Black Child Development Institute-Cleveland Affiliate
- Graham Bowman, Ohio Poverty Law Center
- Gabriella Celeste, JD, Policy Director and Childhood Studies Program Co-Director,
 Schubert Center for Child Studies, Case Western Reserve University
- Robert Cole, Senior Attorney, Advocates for Basic Legal Equality, Inc. and Toledo Lead Poisoning Prevention Coalition
- Erin Davies, Executive Director, Ohio Juvenile Justice Coalition
- Dorr Dearborn, PhD, MD, Mary Ann Swetland Professor Emeritus, Swetland Center for Environmental Health, Case Western Reserve University
- Jeanne Deimling Johns, Director of Advocacy, Legal Aid of Western Ohio
- Rebekah Dorman, PhD, Director, Invest in Children/Office of Early Childhood, Cuyahoga County
- Joanne Federman, Executive Director, MEd, CNM, Family Connections of Northeast Ohio
- Robert L. Fischer, PhD, Co-Director of the Center on Urban Poverty and Community Development and Associate Professor, Jack, Joseph and Morton Mandel School of Applied Social Sciences, Case Western Reserve University
- Kim Foreman, Executive Director, Environmental Health Watch

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- Abdulla Ghori, MD, FAAP, Chair, Graduate Medical Education and DIO; Vice Chair, Pediatrics; Division Chief, Ambulatory Pediatrics; Associate Professor of Pediatrics, Case Western Reserve University
- LaTonya Goldsby, Co-Founder, Cleveland Black Lives Matter Chapter and Black Leaders Across Cleveland Kinnected
- Anne C. Goodman, President and CEO, Saint Luke's Foundation
- Eric S. Gordon, Chief Executive Officer, Cleveland Metropolitan School District
- Heather A. Hall, Director of Advocacy, Advocates for Basic Legal Equality, Inc.
- Yvonka M. Hall, MPA, Executive Director, Northeast Ohio Black Health Coalition
- Cecilia Hammond, MSW, LISW-S, Early Intervention Supervisor, Help Me Grow Brighter Futures
- Steve Holecko, Political Director, Cuyahoga County Progressive Caucus
- Benjamin D. Horne, Managing Attorney, The Legal Aid Society of Columbus
- Elizabeth Jones, MBA, President, National Coalition of 100 Black Women Inc., Greater Cleveland Chapter
- Kurt Karakul, President and Executive Director, Third Federal Foundation
- Bernadette Kerrigan, LISW, SPHR, Executive Director, First Year Cleveland, Case Western Reserve University School of Medicine
- Susanna H. Krey, Senior Vice President, Sisters of Charity Health System, President, Sisters of Charity Foundation of Cleveland
- Peggy P. Lee, Senior Staff Attorney, Southeastern Ohio Legal Services
- Robyn Lightcap, Executive Director, Learn to Earn Dayton
- Marcia McCoy, Executive Director, National Action Network Greater Cleveland Chapter
- Lolita M. McDavid, MD, MPA, Medical Director of Child Advocacy and Protection at Rainbow Babies and Children's Hospital, University Hospitals of Case Western Reserve University School of Medicine
- Megan Meister, MSSA, LSW, Director of Community Engagement, Neighborhood Family Practice Community Health Centers
- Tracy Najera, PhD, MPA, Executive Director, Children's Defense Fund Ohio
- August A. Napoli, President and CEO, United Way of Greater Cleveland
- Andrew D. Neuhauser, Supervising Attorney, Community Legal Aid Services
- Summer Paris, Resident of Cleveland, Cuyahoga County
- Jean Polster, RN, MS, President and CEO, Neighborhood Family Practice Community Health Centers
- Ronald B. Richard, President and CEO, The Cleveland Foundation
- Sarah D. Ronis, MD, MPH, Interim Director, Center for Child Health and Policy, University Hospitals Rainbow Babies and Children's Hospitals
- Loretta Sharp Gray, MEd, Executive Director, National Council of Negro Women-Cuyahoga County Section
- Elizabeth J. Short, PhD, Professor of Psychology, Director of Experimental Training, Co-Director of Childhood Studies, Department of Psychological Sciences, Case Western Reserve University

- Abigail C. Staudt, Managing Attorney, The Legal Aid Society of Cleveland
- Roopa Thakur, MD, FAAP, Staff Physician, Department of Primary Care Pediatrics, Cleveland Clinic Community Health
- Spencer Wells, Co-Founder, Cleveland Lead Safe Network

5123-10-03 and 5123-10-04

 Cecilia Hammond, MSW, LISW-S, Early Intervention Supervisor, Help Me Grow Brighter Futures

5123-10-02, 5123-10-04, and Early Intervention Forms

- Jennifer Barga, Director of Nursing and Early Intervention Supervisor, Darke County Board of Developmental Disabilities
- Jennifer Bradford, Early Intervention Director, Champaign County Board of Developmental Disabilities
- Shannon Chatfield, Early Intervention Director, Clark County Board of Developmental Disabilities
- Connie Galey, Early Intervention Service Coordination Supervisor, Miami County Board of Developmental Disabilities
- Kathy Greenawalt-Cherry, Early Intervention Director, Miami County Board of Developmental Disabilities
- Melissa Kaup, Early Intervention Manager, Mercer County Board of Developmental Disabilities
- Nicole Lefeld, Service Coordinator, Darke County Board of Developmental Disabilities
- Jessica Meyer, Service Coordinator, Shelby County Board of Developmental Disabilities
- Jodi Mikesell, Early Intervention Support, Darke County Board of Developmental Disabilities
- Joy Miller, Director of Early Intervention, Auglaize County Board of Developmental Disabilities
- Taylor Ording, Developmental Specialist, Miami County Board of Developmental Disabilities
- Diann Rodrigues, Service Coordinator, Shelby County Board of Developmental Disabilities
- Nancy Stiefel, Early Intervention Director, Shelby County Board of Developmental Disabilities
- Amy Willis, Early Intervention Supervisor, Clark County Board of Developmental Disabilities
- Liz Zantek Rose, Early Intervention Coordinator, Logan County Board of Developmental Disabilities
- Leslie Zimmers, Early Childhood Supervisor, Darke County Board of Developmental Disabilities

Consolidated Summary of Comments Received

Please review all comments received and complete a consolidated summary paragraph of the comments and indicate the rule number(s).

5123-10-02 (Early Intervention Program - Eligibility and Services)

Comment	Department's Response
(B)(18): Why is "group basis" listed in the	Federal regulations use and define "intensity."
definition of "intensity" if it is not an option in	The Department will provide guidance regarding
Section 4 of the Individualized Family Service	how to address intensity as needed within the
Plan?	Individualized Family Service Plan.
(C)(1):	
Current program rules in Ohio do not allow a	An infant or toddler with any level of diagnosed
lead-exposed child access to Early Intervention	lead exposure is already able to access Early
services until a related developmental delay is	Intervention services with a physician's
severe enough to be recognized and diagnosed.	documentation of the diagnosis and the clinical opinion of adverse impact on the child's
	development.
	development.
Recommend adding the following language to	The Department is adopting the elevated blood
the rule regarding eligibility:	lead level currently recommended by the
Confirmed elevated blood lead level of five	Centers for Disease Control and Prevention.
micrograms per deciliter, or at the reference	
level established by the Centers for Disease	
Control and Prevention.	
Allow children who have been exposed to	In response to your testimony, "Blood lead level
dangerous levels of lead to access critical Early Intervention services.	of five micrograms per deciliter or greater" was
intervention services.	added to Appendix C of the rule.
(D)(1): Meeting the 45-day timeline will be very	We understand. Federal regulations, however,
challenging if a parent chooses not to waive his	require a parent to have prior written notice as
or her right to 10-day notice for screening	defined in paragraph (B)(28) of the rule. The
and/or evaluation and assessment.	requirement has not changed and the definition
	is not new. Based on a suggestion from
	stakeholders, the Department added an option
	to forms El-01, El-02, El-03, and El-11 for a
	parent to waive the 10-day notice. A parent
	who chooses not to waive this right is entitled to
	the full 10-day notice prior to specific Early Intervention activities.
	intervention activities.

Comment	Department's Response
(J)(2)(c) and (J)(7): These two sections are	Paragraph (J)(2)(c) refers to a periodic review
contradictory. (J)(2)(c) states that "all persons	and paragraph (J)(7) refers to an initial or annual
participating in the periodic review may	meeting. Based on your feedback, paragraph (J)
participate via technology from a remote	has been reworked to more clearly distinguish
location." (J)(7) states "the parent of the child	between the various types of Individualized
and the early intervention service coordinator	Family Service Plan meetings.
shall be physically present at the meeting."	
(J)(5): There is little clarity or guidance on when	The paragraph wording reflects both the federal
to provide the Individualized Family Service Plan	requirements and the request from stakeholders
meeting notice (form EI-13). The rule states	to refrain from setting restrictive timelines.
"early enough to ensure they will be able to	
attend." This phrase is very vague.	
(P)(2): If a parent requests to exit, it seems	"Prior written notice," as defined in paragraph
unnecessary to provide the parent with 10-day	(B)(28) of the rule, is required when a parent
notice of exit and complete form EI-10.	requests a change or <i>termination</i> of a service.

5123-10-03 (Early Intervention Program - System of Payments)

Comment	Department's Response
(G)(3)(c): All items outlined that need to be	The requirements in paragraph (G)(3)(c) of new
provided to the parent in writing need to be	rule 5123-10-03 mirror the requirements in
made available by the Department on a form or	paragraph (G)(3)(c) of currently effective rule
in a parent's rights document.	5123:2-10-01. These requirements are
	described in the <u>System of Payments</u> brochure.

5123-10-04 (Early Intervention Program - Credentials for Early Intervention Service Coordinators and Early Intervention Service Coordination Supervisors)

Comment	Department's Response
(B)(8): Define what can be included in	"Reflective supervision" is defined in paragraph
"reflective supervision" (e.g., one-on-one,	(B)(13). There is no restriction on how a Service
group/team meetings). Since reflective	Coordination Supervisor provides reflective
supervision includes record reviews, is it the role	supervision as long as it meets the definition. A
of the Service Coordinator or the Supervisor to	Service Coordination Supervisor may provide
document?	reflective supervision for multiple Service
	Coordinators at the same time.
	New paragraph (B)(13)(c) was added to make
	clear that the Supervisor is responsible for
	documenting reflective supervision.

Comment	Department's Response
(B)(13)(b): Previous rule draft suggested varying	The rule as filed on November 30, 2018,
degrees of supervision based on level of	required four hours per month for Service
experience. Mandating four hours of reflective	Coordinators working 40 hours per week; the
supervision a month for all service coordinators	required hours per month were proportionally
is going to be a big barrier for supervisors who	adjusted for Service Coordinators working less
supervise large numbers of staff, especially	than 40 hours per week. This allowed more
when many have greater than five years of	flexibility than the version earlier disseminated
experience.	for clearance, which required four hours per
	month for full-time Service Coordinators and
	two hours per month for part-time Service
	Coordinators (without regard for the number of
	hours actually worked by a part-time Service
	Coordinator). The requirement is intended to
	meet a need, identified in the Department's
	assessment of service coordination conducted
	over the past two years, to increase Service
	Coordinator competence and confidence.
	Please note that the paragraph has been further
	adjusted to afford consideration for level of
	experience and now requires:
	Four hours per month for full-time Service
	Coordinators holding a one-year credential
	and
	Two hours per month for full-time Service
	Coordinators holding a five-year credential.
(C)(1)(a)(iii)(<i>e</i>), (C)(2)(a)(ii)(<i>e</i>), (D)(1)(a)(iii)(<i>e</i>),	Yes; the Department will make training readily
and (D)(2)(a)(ii)(e): Will there be training on	available before the rule goes into effect.
mandated reporting?	
(D): Supervisors who have a declared number of	While the rule does not use the term,
years holding this certification should be	"grandfather," paragraphs (E) and (F) specify
grandfathered without the possibility of losing	requirements for a person who holds an active
their jobs. Example: A current employee who	Service Coordinator or Service Coordination
has been a supervisor for 10 years with an	Supervisor credential as of the effective date of
Associate's degree could lose her job due to not	the rule. Thus, a person with an active Service
obtaining a Bachelor's degree.	Coordination Supervisor credential who has an
	Associate's degree will be able to continue to
	renew the credential under the new rule
	provided the person meets the other renewal
	requirements.

Forms EI-01 (Prior Written Notice and Consent for Developmental Screening), EI-02 (Prior Written Notice and Consent for Developmental Evaluation and Assessment), EI-03 (Prior Written Notice and Consent for Family-Directed Assessment), EI-06 (Consent for Records and Consent for Release and/or Exchange of Information), EI-07 (Consents for Transition), and EI-08 (Consent to Refer Child to the Local Education Agency and the Ohio Department of Education)

Comment	Department's Response
Prior written notice/consent forms are too	The prior written notices and informed consents
cumbersome for families. Creating more	set forth in these forms are federally-mandated
paperwork to sign will interrupt the ability to	under Part C of the <i>Individuals with Disabilities</i>
form a positive rapport with families.	Education Act and existed under Ohio
	Department of Health rules. The new forms
	were developed with considerable stakeholder
	input, including input from parents. While we
	are proposing more forms than currently exist,
	the forms better articulate the process and
	reasons and are intended to more clearly
	establish compliance with federal requirements.

Forms EI-01 (Prior Written Notice and Consent for Developmental Screening), EI-02 (Prior Written Notice and Consent for Developmental Evaluation and Assessment), EI-03 (Prior Written Notice and Consent for Family-Directed Assessment), and EI-11 (Prior Written Notice for Proposed Change to Services)

Comment	Department's Response
I like the "Waiver of Timeline" box to waive	Requirements for 10-day prior written notice
rights to 10-day prior written notice. What is the	and the 45-day timeline are already in place.
proposed plan if the Service Coordinator is	Waiving the 10-day prior written notice timeline,
unable to obtain the parent's initials for	which is the only part that is new, provides
permission to waive the 10-day prior notice,	flexibility, but only when a parent chooses to do
especially if it is mailed? How will the 45-day	so. The waiver is completely optional and a
deadline be achieved if the parent chooses not	parent cannot be required to waive his or her
to waive 10-day notice?	right to the full 10-day notice.
Consent forms indicate the parent must receive	The Service Coordinator must provide a copy of
a copy of the signed consent but there is no	the form to the parent because the form serves
timeline attached to when the parent must	as prior written notice. There is no requirement
receive this.	on the forms or in the rules to provide a copy of
	the <i>signed</i> consent form.

Form EI-04 (Individualized Family Service Plan)

Comment	Department's Response
Section 1: I like "IFSP type and date," "Child lives with?," and "Relationship to child if not bio or adoptive parent" but form is hard to follow (parents are on separate sides) and cluttered.	Thank you for your feedback. The form was developed with a large and diverse group of stakeholders and pilot-tested prior to rule-filing.
Section 2: I like that Service Coordinator's job description is listed and explained. Add Primary Service Provider's name and contact information.	Section 2 pertains to Service Coordination. Service providers are listed as relevant in Section 4.
Section 3A: Current Attachment A summarizes information at a quick glance for doctors, Early Intervention staff, and parents without looking through various pages.	We appreciate your feedback. The Evaluation and Assessment section of the Individualized Family Service Plan was edited to increase the focus on the child's developmental skills and behaviors within the context of daily routines. The revisions also capture the information required under federal and state regulations for evaluation and assessment information to reflect multiple sources, the scores being only one component.
Section 3A: Include a clinical opinion box. "Informed clinical opinion" is defined in rule 5123-10-02 but not listed as an option on this form. If assessment tool shows no eligibility but child needs to be monitored for potential delays, why make assumptions? May need to reevaluate but form shows either initial eligibility or annual eligibility.	Informed clinical opinion is a component of a developmental delay, rather than a stand-alone eligibility category. Please see paragraph (C)(1)(c) of rule 5123-10-02. The Department will provide technical assistance on how to document a developmental delay when the delay is determined through informed clinical opinion, rather than scores.
Section 3A: Need space to identify areas of delays.	The area or areas of delay will be described in the narrative, throughout Section 3B. The Department will provide training prior to implementation of the new form.
Section 3A: May providers of Early Intervention services modify/create our own table to simplify?	The form was developed with a large and diverse group of stakeholders and pilot-tested prior to the rule filing. There was considerable discussion about how the current Attachment A components would be documented on the new form. Form EI-04 must be used without alteration. Providers of Early Intervention services may continue to create individualized documentation necessary to explain and convey information to families and other entities for whom a child's parent has consented to provide information.

Comment	Department's Response
Section 3B: "Review of your child's history" and	Section 3B captures evaluation information,
"Information from other sources" area is fine	while Section 3E is the assessment section with
and not redundant. Redundant if information is	three parts for capturing the three skill areas
also listed on Child Outcome Summary.	reported for child outcome summaries. The
	Department considered stakeholder input in an
	effort to eliminate redundancies and training will
	be provided on the differences between
	completion of sections 3B and 3E in order to
	reduce perceived redundancies.
Section 3C: Add a "decline" box.	This section of the form captures information
	about the family-directed assessment only.
	Documentation of a parent granting or
	withholding consent for the family-directed
	assessment is captured on form EI-03.
Section 3E: Need training and/or guidance	The Department will make training and guidance
documents.	readily available before the rules and forms are
	implemented.
Section 4: Nice to see progress for future	We appreciate the need for additional pages and
Individualized Family Service Plans and nice	intend to extract this page and publish it
family participation area. Need additional pages	separately (as we do now) so that as many
of space for multiple outcomes.	outcome pages as necessary may be included.
Section 5: Page is neater than current form and	Thank you for your feedback. Including the Early
parent no longer has to check and initial boxes.	Intervention Service Coordinator's phone
Add phone number of Primary Service	number on the form supports the role of the
Provider/supports.	Service Coordinator as the single point of
	contact as mandated by Part C of the <i>Individuals</i>
	with Disabilities Education Act. Stakeholders
	involved in development and pilot-testing of the
	form revealed that counties have sometimes
	developed (and provided to parents) a brochure
	or similar document including information about
	the Early Intervention team and how to contact
	team members.

Forms EI-05 (Consent to Use Insurance for Early Intervention Services) and EI-15 (Determination of Parent Ability to Pay for Early Intervention Services)

Comment	Department's Response
Forms EI-05 and EI-15 should be combined as	The decision to split the current form into two
both address insurance.	forms was based on stakeholder feedback and
	the fact that EI-15 is not about insurance but
	about the parent's ability to pay for Early
	Intervention services, which must be determined
	for every parent.

Form EI-06 (Consent for Release of Records and Consent for Release and/or Exchange of Information)

Comment	Department's Response
Why are there two separate consents (release of records versus release and/or exchange of information)?	Stakeholders strongly requested the ability to include consent for exchanging information (e.g., verbally). Parents must provide informed consent for any activity related to release or exchange of information, and the feedback received was that parents often have a need for one activity but not the other.

Form EI-07 (Consents for Transition)

Comment	Department's Response
I like that this is a separate form from initial	We are pleased you find this helpful.
Individualized Family Service Plan.	

Form EI-08 (Consent to Refer Child to the Local Education Agency and the Ohio Department of Education)

Comment	Department's Response
It is difficult to obtain a parent's signature for a	The requirements of this form may be found in
child less than 45 days from his/her third	paragraph (L) of rule 5123-10-02. It is
birthday. We usually direct parent to area	permissible for a parent to make his or her own
preschool or Central Coordination for	referral to the local education agency, but if the
preschool's contact information.	parent wants the Early Intervention Service
	Coordinator or central intake site to make the
	referral, the parent's written consent must first
	be obtained using form EI-08.

Form EI-09 (Prior Written Notice of Determination of Ineligibility)

Comment	Department's Response
Form needs to be condensed—why three pages?	The evaluation section for the Individualized
Would like Attachment A.	Family Service Plan was edited to capture the
	information required under federal and state
	regulations, including capturing of information
	from multiple sources when determining
	eligibility. In response to your feedback, the
	form was condensed to two pages.

Form EI-12 (Documentation of Diagnosed Condition)

Comment	Department's Response
Looks easier; I like the boxes.	Excellent!

Form El-13 (Individualized Family Service Plan Meeting Notice)

Comment	Department's Response
Need addresses and phone numbers for multiple	Stakeholders evaluating the form prioritized
invitees to meeting.	keeping it to a single page. The Service
	Coordinator holds the responsibility for sending
	a copy of the form to all invitees.

Form EI-14 (Professional Referral Follow-Up)

Comment	Department's Response
Confusing form. First box conflicts with first	We respectfully disagree and will ensure training
statement.	will be available prior to implementation of new
	rules and forms.

Incorporated Comments into Rule(s)

Indicate how comments received during the hearing process were incorporated into the rule(s). If no comments were incorporated, explain why not.

The Department incorporated feedback as indicated above.