



Department of  
Developmental Disabilities

## Hearing Summary Report

**Hearing Date:** 01/03/2019

**Today's Date:** 03/01/2019

**Rule Numbers:** Rescind: 5123:2-10-01

New: 5123-10-01, 5123-10-02, 5123-10-03, and 5123-10-04

**If no comments at hearing, 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

- Abdulla Ghorl, 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)**

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

Comment	Department's Response
(J)(2)(c) and (J)(7): These two sections are contradictory. (J)(2)(c) states that "all persons participating in the periodic review may participate via technology from a remote location." (J)(7) states "the parent of the child and the early intervention service coordinator shall be physically present at the meeting."	Paragraph (J)(2)(c) refers to a periodic review and paragraph (J)(7) refers to an initial or annual meeting. Based on your feedback, paragraph (J) has been reworked to more clearly distinguish between the various types of Individualized Family Service Plan meetings.
(J)(5): There is little clarity or guidance on when to provide the Individualized Family Service Plan meeting notice (form EI-13). The rule states "early enough to ensure they will be able to attend." This phrase is very vague.	The paragraph wording reflects both the federal requirements and the request from stakeholders to refrain from setting restrictive timelines.
(P)(2): If a parent requests to exit, it seems unnecessary to provide the parent with 10-day notice of exit and complete form EI-10.	"Prior written notice," as defined in paragraph (B)(28) of the rule, is required when a parent requests a change or <b>termination</b> 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 provided to the parent in writing need to be made available by the Department on a form or in a parent's rights document.	The requirements in paragraph (G)(3)(c) of new rule 5123-10-03 mirror the requirements in paragraph (G)(3)(c) of currently effective rule 5123:2-10-01. These requirements are described in the <a href="#">System of Payments</a> 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" (e.g., one-on-one, group/team meetings). Since reflective supervision includes record reviews, is it the role of the Service Coordinator or the Supervisor to document?	<p>"Reflective supervision" is defined in paragraph (B)(13). There is no restriction on how a Service Coordination Supervisor provides reflective supervision as long as it meets the definition. A Service Coordination Supervisor may provide reflective supervision for multiple Service Coordinators at the same time.</p> <p>New paragraph (B)(13)(c) was added to make clear that the Supervisor is responsible for documenting reflective supervision.</p>

Comment	Department's Response
<p>(B)(13)(b): Previous rule draft suggested varying degrees of supervision based on level of experience. Mandating four hours of reflective supervision a month for all service coordinators is going to be a big barrier for supervisors who supervise large numbers of staff, especially when many have greater than five years of experience.</p>	<p>The rule as filed on November 30, 2018, required four hours per month for Service Coordinators working 40 hours per week; the required hours per month were proportionally adjusted for Service Coordinators working less than 40 hours per week. This allowed more flexibility than the version earlier disseminated 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:</p> <ul style="list-style-type: none"> <li>• Four hours per month for full-time Service Coordinators holding a one-year credential and</li> <li>• Two hours per month for full-time Service Coordinators holding a five-year credential.</li> </ul>
<p>(C)(1)(a)(iii)(e), (C)(2)(a)(ii)(e), (D)(1)(a)(iii)(e), and (D)(2)(a)(ii)(e): Will there be training on mandated reporting?</p>	<p>Yes; the Department will make training readily available before the rule goes into effect.</p>
<p>(D): Supervisors who have a declared number of years holding this certification should be grandfathered without the possibility of losing their jobs. Example: A current employee who has been a supervisor for 10 years with an Associate's degree could lose her job due to not obtaining a Bachelor's degree.</p>	<p>While the rule does not use the term, "grandfather," paragraphs (E) and (F) specify requirements for a person who holds an active Service Coordinator or Service Coordination Supervisor credential as of the effective date of the rule. Thus, a person with an active Service 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.</p>

**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 cumbersome for families. Creating more paperwork to sign will interrupt the ability to form a positive rapport with families.	The prior written notices and informed consents set forth in these forms are federally-mandated under Part C of the <i>Individuals with Disabilities Education Act</i> 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 rights to 10-day prior written notice. What is the proposed plan if the Service Coordinator is unable to obtain the parent's initials for permission to waive the 10-day prior notice, especially if it is mailed? How will the 45-day deadline be achieved if the parent chooses not to waive 10-day notice?	Requirements for 10-day prior written notice and the 45-day timeline are already in place. Waiving the 10-day prior written notice timeline, which is the only part that is new, provides flexibility, but only when a parent chooses to do so. The waiver is completely optional and a parent cannot be required to waive his or her right to the full 10-day notice.
Consent forms indicate the parent must receive a copy of the signed consent but there is no timeline attached to when the parent must receive this.	The Service Coordinator must provide a copy of the form to the parent because the form serves as prior written notice. There is no requirement 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 "Information from other sources" area is fine and not redundant. Redundant if information is also listed on Child Outcome Summary.	Section 3B captures evaluation information, while Section 3E is the assessment section with three parts for capturing the three skill areas 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 documents.	The Department will make training and guidance readily available before the rules and forms are implemented.
Section 4: Nice to see progress for future Individualized Family Service Plans and nice family participation area. Need additional pages of space for multiple outcomes.	We appreciate the need for additional pages and intend to extract this page and publish it separately (as we do now) so that as many outcome pages as necessary may be included.
Section 5: Page is neater than current form and parent no longer has to check and initial boxes. Add phone number of Primary Service Provider/supports.	Thank you for your feedback. Including the Early Intervention Service Coordinator's phone number on the form supports the role of the Service Coordinator as the single point of contact as mandated by Part C of the <i>Individuals with Disabilities Education Act</i> . 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)**

<b>Comment</b>	<b>Department's Response</b>
Forms EI-05 and EI-15 should be combined as both address insurance.	The decision to split the current form into two 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)**

<b>Comment</b>	<b>Department's Response</b>
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)**

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

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

<b>Comment</b>	<b>Department's Response</b>
It is difficult to obtain a parent's signature for a child less than 45 days from his/her third birthday. We usually direct parent to area preschool or Central Coordination for preschool's contact information.	The requirements of this form may be found in paragraph (L) of rule 5123-10-02. It is permissible for a parent to make his or her own referral to the local education agency, but if the 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? Would like Attachment A.	The evaluation section for the Individualized 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 EI-13 (Individualized Family Service Plan Meeting Notice)**

Comment	Department's Response
Need addresses and phone numbers for multiple invitees to meeting.	Stakeholders evaluating the form prioritized 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 statement.	We respectfully disagree and will ensure training 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.