

**SOONERSTART EARLY INTERVENTION
POLICIES**



**THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT
(IDEA) PART C
EARLY INTERVENTION SERVICES**

OKLAHOMA STATE DEPARTMENT OF EDUCATION

2012

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INTRODUCTION

The SoonerStart Early Intervention program (hereinafter called SoonerStart) is Oklahoma's program for infants and toddlers with disabilities – Part C of the Individuals with Disabilities Education Act (IDEA) is a federal grant program, established in 1986 that assist in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, aged birth through 2 years, and their families.

The policies contained in this manual are to ensure that all eligible infants and toddlers with developmental delays, aged birth through two, who are residents of Oklahoma, including all children residing on a reservation or Indian lands geographically located in the State, homeless children and their families; and infants and toddlers with disabilities who are wards of the State have SoonerStart early intervention services available as mandated by the Individuals with Disabilities Education Act (IDEA), Amendments of 2004. This document is to support implementation of Part C of the IDEA. The purposes are to: ensure services for eligible children with developmental delays and disabilities are designed to meet the child and family's unique needs; prepare the child for future educational and independent living opportunities; ensure the rights and protections of children with developmental delays and disabilities and their parent(s) are provided in accordance with the IDEA; to assist public agencies in the provision of special education and related services; and to assess and ensure effectiveness of these efforts.

All SoonerStart staff and contract providers shall comply with the regulations and all other applicable state and federal regulations. All SoonerStart staff and contract providers who provide early intervention services for the SoonerStart program shall do so in accordance with these regulations and under the supervisory authority of the lead agency for Part C of IDEA, the Oklahoma State Department of Education.

PURPOSE OF THE EARLY INTERVENTION PROGRAM

34 CFR §303.1 Purpose of the early intervention program for infants and toddlers with disabilities.

The purpose of this part is to provide financial assistance to States to—

- (a) Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;*
- (b) Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);*
- (c) Enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;*
- (d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and*
- (e) Encourage States to expand opportunities for children under three years of age who would be at risk of having substantial developmental delay if they did not*

receive early intervention services. (Authority: 20 U.S.C. 1400(d)(2), 1431(a)(5), 1431(b))

Oklahoma Early Intervention Act, Section 282

A. It is the purpose of the Oklahoma Early Intervention Act to establish the policy of this state to provide for early intervention services to infants and toddlers with disabilities and their families in accordance with Part C, formerly Part H, of the Individuals with Disabilities Education Act (IDEA), as may be amended. These services are deemed to be necessary in order to:

- 1. Enhance the development of infants and toddlers with disabilities;*
- 2. Reduce the educational costs to our society by minimizing the need for special education and related services after such children reach school age;*
- 3. Minimize the likelihood of institutionalization of individuals with disabilities and maximize their potential for independent living in society; and*
- 4. Enhance the capacity of families to meet the needs of their infants and toddlers with disabilities.*

B. The implementation of this policy requires the development of a system of services to infants and toddlers with disabilities and their families which is:

- 1. Comprehensive, coordinated, multidisciplinary and interagency;*
- 2. Delivered by the State Department of Education, Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services for infants and toddlers with disabilities and their families subject to the provision of the Oklahoma Early Intervention Act; and*
- 3. Intended to fulfill the requirements of Part C of the Individuals with Disabilities Education Act (IDEA), by providing early intervention services.*

DEFINITIONS

34 CFR §303.4 Act.

*Act means the Individuals with Disabilities Education Act, as amended.
(Authority: 20 U.S.C. 1400(a))*

34 CFR §303.5 At-risk infant or toddler.

At-risk infant or toddler means an individual under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. At the State's discretion, at-risk infant or toddler may include an infant or toddler who is at risk of experiencing developmental delays because of biological or environmental factors that can be identified (including low birth weight, respiratory distress as a newborn, lack of

oxygen, brain hemorrhage, infection, nutritional deprivation, a history of abuse or neglect, and being directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure).

(Authority: 20 U.S.C. 1432(1), 1432(5)(B)(i) and 1437(a)(6))

34 CFR §303.6 Child.

Child means an individual under the age of six and may include an infant or toddler with a disability, as that term is defined in §303.21.

(Authority: 20 U.S.C. 1432(5))

34 CFR §303.7 Consent.

Consent means that--

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in §303.25;

(b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and

(c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

(Authority: 20 U.S.C. 1439)

34 CFR §303.8 Council.

Council means the State Interagency Coordinating Council that meets the requirements of subpart G of this part.

(Authority: 20 U.S.C. 1432(2))

34 CFR §303.9 Day.

Day means calendar day, unless otherwise indicated.

(Authority: 20 U.S.C. 1221e-3)

34 CFR §303.10 Developmental delay.

Developmental delay, when used with respect to a child residing in a State, has the meaning given that term by the State under §303.111.

(Authority: 20 U.S.C. 1432(3))

Oklahoma Early Intervention Act, Section 283. Eligibility

A. The children eligible for entry into early intervention services in the State of Oklahoma shall be infants and toddlers age birth through two years (0-36) who are developmentally delayed. As used in this act "developmentally delayed" means children of the chronological age group specified in the section who:

1. Exhibit a delay in their developmental age of fifty percent (50%) or score two standard deviations below the mean in one of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development;
 2. Exhibit a delay in their developmental age compared to their chronological age of twenty-five percent (25%) or score one and one-half standard deviations below the mean in two or more of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development.
 3. Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformation of the brain, congenital infections and sensory abnormalities and impairments or identified syndromes.
- B. The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions established in subsection A of this section whenever such modification is required to receive federal assistance under Part C of the IDEA, as may be amended (70-13-123).

34 CFR §303.11 Early intervention service program.

*Early intervention service program or EIS program means an entity designated by the lead agency for reporting under §§303.700 through 303.702.
(Authority: 20 U.S.C. 1416, 1431–1444)*

SoonerStart is Oklahoma’s early intervention program is a collaborative effort between the Oklahoma State Departments of Education, Health, Human Services, Mental Health and Substance Abuse, Health Care Authority, and Oklahoma Commission on Children and Youth in accordance with the Oklahoma Early Intervention Act. The program is an integrated statewide system that serves all eligible infants and toddlers. SoonerStart staff are hired or contracted by the Departments of Education and Health and located in local Health Departments throughout the state.

34 CFR §303.12 Early intervention service provider.

(a) Early intervention service provider or EIS provider means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under Part C of the Act, whether or not the entity or individual receives Federal funds under Part C of the Act, and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in the State under Part C of the Act.

(b) An EIS provider is responsible for--

(1) Participating in the multidisciplinary individualized family service plan (IFSP) Team’s ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the

infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP;

(2) Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and

(3) Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

(Authority: 20 U.S.C. 1431-1444)

34 CFR §303.13 Early intervention services.

(a) General. Early intervention services means developmental services that--

(1) Are provided under public supervision;

(2) Are selected in collaboration with the parents;

(3) Are provided at no cost, except, subject to §§303.520 and 303.521, where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(4) Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP Team, in any one or more of the following areas, including--

(i) Physical development;

(ii) Cognitive development;

(iii) Communication development;

(iv) Social or emotional development; or

(v) Adaptive development;

(5) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the Act;

(6) Include services identified under paragraph (b) of this section;

(7) Are provided by qualified personnel (as that term is defined in §303.31), including the types of personnel listed in paragraph (c) of this section;

(8) To the maximum extent appropriate, are provided in natural environments, as defined in §303.26 and consistent with §§303.126 and 303.344(d); and

(9) Are provided in conformity with an IFSP adopted in accordance with section 636 of the Act and §303.20.

(b) Types of early intervention services. Subject to paragraph (d) of this section, early intervention services include the following services defined in this paragraph:

(1) Assistive technology device and service are defined as follows:

(i) Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an infant or toddler with a disability. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.

(ii) *Assistive technology service means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. The term includes--*

(A) *The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;*

(B) *Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;*

(C) *Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;*

(D) *Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;*

(E) *Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and*

(F) *Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.*

(2) *Audiology services include--*

(i) *Identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;*

(ii) *Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;*

(iii) *Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;*

(iv) *Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;*

(v) *Provision of services for prevention of hearing loss; and*

(vi) *Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.*

(3) *Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development.*

(4) *Health services has the meaning given the term in §303.16.*

(5) *Medical services means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.*

(6) *Nursing services include--*

(i) *The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;*

- (ii) *The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and*
 - (iii) *The administration of medications, treatments, and regimens prescribed by a licensed physician.*
- (7) *Nutrition services include--*
- (i) *Conducting individual assessments in--*
 - (A) *Nutritional history and dietary intake;*
 - (B) *Anthropometric, biochemical, and clinical variables;*
 - (C) *Feeding skills and feeding problems; and*
 - (D) *Food habits and food preferences;*
 - (ii) *Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings in paragraph (b)(7)(i) of this section; and*
 - (iii) *Making referrals to appropriate community resources to carry out nutrition goals.*
- (8) *Occupational therapy includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include--*
- (i) *Identification, assessment, and intervention;*
 - (ii) *Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and*
 - (iii) *Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.*
- (9) *Physical therapy includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include--*
- (i) *Screening, evaluation, and assessment of children to identify movement dysfunction;*
 - (ii) *Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and*
 - (iii) *Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.*
- (10) *Psychological services include--*
- (i) *Administering psychological and developmental tests and other assessment procedures;*
 - (ii) *Interpreting assessment results;*
 - (iii) *Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and*

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(11) Service coordination services has the meaning given the term in §303.34.

(12) Sign language and cued language services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

(13) Social work services include--

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(ii) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;

(iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;

(iv) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and

(v) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

(14) Special instruction includes--

(i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the infant or toddler with a disability to enhance the child's development.

(15) Speech-language pathology services include--

(i) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and

(iii) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

(16) *Transportation and related costs include the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.*

(17) *Vision services mean--*

(i) *Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;*

(ii) *Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and*

(iii) *Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.*

(c) *Qualified personnel. The following are the types of qualified personnel who provide early intervention services under this part:*

(1) *Audiologists.*

(2) *Family therapists.*

(3) *Nurses.*

(4) *Occupational therapists.*

(5) *Orientation and mobility specialists.*

(6) *Pediatricians and other physicians for diagnostic and evaluation purposes.*

(7) *Physical therapists.*

(8) *Psychologists.*

(9) *Registered dietitians.*

(10) *Social workers.*

(11) *Special educators, including teachers of children with hearing impairments (including deafness) and teachers of children with visual impairments (including blindness).*

(12) *Speech and language pathologists.*

(13) *Vision specialists, including ophthalmologists and optometrists.*

(d) *Other services. The services and personnel identified and defined in paragraphs (b) and (c) of this section do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services. Nothing in this section prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in paragraph (a) of this section or of another type of personnel that may provide early intervention services in accordance with this part, provided such personnel meet the requirements in §303.31.*

(Authority: 20 U.S.C. 1432(4))

34 CFR §303.14 Elementary school.

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(Authority: 20 U.S.C. 1401(6))

34 CFR §303.15 Free appropriate public education.

Free appropriate public education or FAPE, as used in §§303.211, 303.501, and 303.521, means special education and related services that--

- (a) Are provided at public expense, under public supervision and direction, and without charge;*
- (b) Meet the standards of the State educational agency (SEA), including the requirements of Part B of the Act;*
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and*
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320 through 300.324.*

(Authority: 20 U.S.C. 1401(9))

34 CFR §303.16 Health services.

(a) Health services mean services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is eligible to receive early intervention services.

(b) The term includes--

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include--

(1) Services that are--

(i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);

(ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or

(iii) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

(A) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.

(B) Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;

(2) Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and

(3) Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

(Authority: 20 U.S.C. 1432(4))

34 CFR §303.17 Homeless children.

Homeless children means children who meet the definition given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

(Authority: 20 U.S.C. 1401(11))

34 CFR §303.18 Include; including.

Include or including means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(Authority: 20 U.S.C. 1221e-3)

34 CFR §303.19 Indian; Indian tribe.

(a) *Indian means an individual who is a member of an Indian tribe.*

(b) *Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.).*

(c) *Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian Tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.*

(Authority: 20 U.S.C. 1401(12)-(13))

34 CFR §303.22 Lead agency.

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of the Act and §303.120 that receives funds under section 643 of the Act to administer the State's responsibilities under Part C of the Act.

(Authority: 20 U.S.C. 1435(a)(10))

Oklahoma Early Intervention Act, Section 285

The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

34 CFR §303.23 Local educational agency.

(a) *General. Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either*

administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Educational service agencies and other public institutions or agencies. The term includes the following:

(1) Educational service agency, defined as a regional public multiservice agency-
(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

(2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under State law.

(3) Entities that meet the definition of intermediate educational unit or IEU in section 602(23) of the Act, as in effect prior to June 4, 1997. Under that definition an intermediate educational unit or IEU means any public authority other than an LEA that--

(i) Is under the general supervision of a State educational agency;

(ii) Is established by State law for the purpose of providing FAPE on a regional basis; and

(iii) Provides special education and related services to children with disabilities within the State.

(c) BIE-funded schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Education, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

(Authority: 20 U.S.C. 1401(5), 1401(19))

34 CFR § 303.25 Native language.

(a) Native language, when used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act), means--

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and

(2) For evaluations and assessments conducted pursuant to §303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(b) Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).
(Authority: 20 U.S.C. 1401(20))

34 CFR §303.26 Natural environments.

Natural environments means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of §303.126.
(Authority: 20 U.S.C. 1432, 1435, 1436)

34 CFR §303.27 Parent.

(a) Parent means--

- (1) A biological or adoptive parent of a child;*
- (2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;*
- (3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State);*
- (4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or*
- (5) A surrogate parent who has been appointed in accordance with §303.422 or section 639(a)(5) of the Act.*

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational or early intervention services decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (a)(4) of this section to act as the "parent" of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "parent" for purposes of Part C of the Act, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

(Authority: 20 U.S.C. 1401(23), 1439(a)(5))

34 CFR §303.28 Parent training and information center.

Parent training and information center means a center assisted under section 671 or 672 of the Act.
(Authority: 20 U.S.C. 1401(25))

34 CFR §303.29 Personally identifiable information.

Personally identifiable information means personally identifiable information as defined in 34 CFR 99.3, as amended, except that the term “student” in the definition of personally identifiable information in 34 CFR 99.3 means “child” as used in this part and any reference to “school” means “EIS provider” as used in this part.

(Authority: 20 U.S.C. 1415, 1439)

34 CFR §303.30 Public agency.

As used in this part, public agency means the lead agency and any other agency or political subdivision of the State.

(Authority: 20 U.S.C. 1435(a)(10))

34 CFR §303.31 Qualified personnel.

Qualified personnel means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

(Authority: 20 U.S.C. 1432(4)(F))

34 CFR §303.32 Scientifically based research.

Scientifically based research has the meaning given the term in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In applying the ESEA to the regulations under Part C of the Act, any reference to “education activities and programs” refers to “early intervention services.”

(Authority: 20 U.S.C. 1435(a)(2))

34 CFR §303.33 Secretary.

Secretary means the Secretary of Education.

(Authority: 20 U.S.C. 1401(28))

34 CFR §303.35 State.

Except as provided in §303.732(d)(3) (regarding State allotments under this part), State means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(31))

34 CFR §303.36 State educational agency.

(a) State educational agency or SEA means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(b) The term includes the agency that receives funds under sections 611 and 619 of the Act to administer the State’s responsibilities under Part B of the Act.

(Authority: 20 U.S.C. 1401(32))

34 CFR §303.37 Ward of the State.

(a) *General.* Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is--

- (1) A foster child;
- (2) A ward of the State; or
- (3) In the custody of a public child welfare agency.

(b) *Exception.* Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in §303.27.

(Authority: 20 U.S.C. 1401(36))

REQUIREMENTS FOR A STATEWIDE SYSTEM

34 CFR §303.100 General authority.

The Secretary, in accordance with Part C of the Act, makes grants to States (from their allotments under section 643 of the Act) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Authority: 20 U.S.C. 1433)

34 §303.101 State eligibility--requirements for a grant under this part.

In order to be eligible for a grant under Part C of the Act for any fiscal year, a State must meet the following conditions:

(a) Assurances regarding early intervention services and a statewide system. The State must provide assurances to the Secretary that--

(1) The State has adopted a policy that appropriate early intervention services, as defined in §303.13, are available to all infants and toddlers with disabilities in the State and their families, including--

(i) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;

(ii) Infants and toddlers with disabilities who are homeless children and their families; and

(iii) Infants and toddlers with disabilities who are wards of the State; and

(2) The State has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including policies and procedures that address, at a minimum, the components required in §§303.111 through 303.126.

(b) State application and assurances. The State must provide information and assurances to the Secretary, in accordance with subpart C of this part, including--

(1) Information that shows that the State meets the State application requirements in §§303.200 through 303.212; and

(2) Assurances that the State also meets the requirements in §§303.221 through 303.227.

(c) Approval before implementation. The State must obtain approval by the Secretary before implementing any policy or procedure required to be submitted

as part of the State's application in §§303.203, 303.204, 303.206, 303.207, 303.208, 303.209, and 303.211.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1434, 1435, 1437)

34 CFR §303.102 State conformity with Part C of the Act.

Each State that receives funds under Part C of the Act must ensure that any State rules, regulations, and policies relating to this part conform to the purposes and requirements of this part.

(Authority: 20 U.S.C. 1407(a)(1))

34 CFR §303.300 General.

The statewide comprehensive, coordinated, multidisciplinary interagency system to provide early intervention services for infants and toddlers with disabilities and their families referenced in §303.100 must include the following components:

(a) Pre-referral policies and procedures that include--

(1) A public awareness program as described in §303.301; and

(2) A comprehensive child find system as described in §303.302.

(b) Referral policies and procedures as described in §303.303.

(c) Post-referral policies and procedures that ensure compliance with the timeline requirements in §303.310 and include--

(1) Screening, if applicable, as described in §303.320;

(2) Evaluations and assessments as described in §§303.321 and 303.322; and

(3) Development, review, and implementation of IFSPs as described in §§303.340 through 303.346.

CHILD IDENTIFICATION

34 §303.115 Comprehensive child find system.

Each system must include a comprehensive child find system that meets the requirements in §§303.302 and 303.303.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(5))

34 §303.302 Comprehensive child find system.

(a) General. Each system must include a comprehensive child find system that--

(1) Is consistent with Part B of the Act (see 34 CFR 300.111);

(2) Includes a system for making referrals to lead agencies or EIS providers under this part that--

(i) Includes timelines; and

(ii) Provides for participation by the primary referral sources described in §303.303(c);

- (3) *Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under this part that will reduce the need for future services; and*
- (4) *Meets the requirements in paragraphs (b) and (c) of this section and §§303.303, 303.310, 303.320, and 303.321.*
- (b) *Scope of child find. The lead agency, as part of the child find system, must ensure that--*
- (1) *All infants and toddlers with disabilities in the State who are eligible for early intervention services under this part are identified, located, and evaluated, including--*
- (i) *Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based, in part, on the information provided by them to the lead agency under §303.731(e)(1)); and*
- (ii) *Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and*
- (iii) *Infants and toddlers with disabilities that are referenced in §303.303(b); and*
- (2) *An effective method is developed and implemented to identify children who are in need of early intervention services.*
- (c) *Coordination. (1) The lead agency, with the assistance of the Council, as defined in §303.8, must ensure that the child find system under this part--*
- (i) *Is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, including Indian tribes that receive payments under this part, and other Indian tribes, as appropriate; and*
- (ii) *Is coordinated with the efforts of the—*
- (A) *Program authorized under Part B of the Act;*
- (B) *Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act, as amended, (MCHB or Title V) (42 U.S.C. 701(a));*
- (C) *Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));*
- (D) *Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);*
- (E) *Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);*
- (F) *Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);*
- (G) *Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));*
- (H) *Child care programs in the State;*
- (I) *The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);*

(J) Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and

(K) Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) The lead agency, with the advice and assistance of the Council, must take steps to ensure that--

(i) There will not be unnecessary duplication of effort by the programs identified in paragraph (c)(1)(ii) of this section; and

(ii) The State will make use of the resources available through each public agency and EIS provider in the State to implement the child find system in an effective manner.

(Authority: 20 U.S.C. 1412(a)(3)(A), 1431, 1434(1), 1435(a)(2), 1435(a)(5), 1435(c)(2)(G), 1437(a)(6), 1437(a)(10), 1441)

SoonerStart's public awareness program represents a strategy for promoting public acceptance and raising public consciousness regarding infants and toddlers with developmental delays or disabilities and SoonerStart services in accordance with 34 § 303.302 Comprehensive child find system. The goal of SoonerStart child find efforts is to locate, identify and evaluate all children residing in the state who may be eligible to receive early intervention services. Child find efforts shall include families and children in rural and Native American communities.

The SoonerStart Early Intervention Program, in collaboration with other public agencies and community resources at the tribal, local, county, or state level, must locate and identify infants and toddlers with established or suspected disability conditions. The child find system will be coordinated with other major efforts including: Oklahoma Parents as Teachers, Oklahoma Health Department, Oklahoma Department of Human Service, Health Care Authority, Early Head Start, Head Start, private preschool programs, hospitals, primary care physicians, local education agencies, and parent support groups, to locate and identify infants and toddlers with disabilities through interagency agreements among state agencies. This collaboration shall include ongoing public awareness activities that are sensitive to issues related to accessibility, culture, language, and other modes of communication.

In accordance with the Child Abuse Prevention and Treatment Act (CAPTA), the SoonerStart program will accept referrals of all children under the age of three (3) who are involved in a substantiated case of abuse or neglect. In addition, SoonerStart will accept referrals for infants and toddlers identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

PUBLIC AWARENESS

34 CFR §303.116 Public awareness program.

Each system must include a public awareness program that--

(a) Focuses on the early identification of infants and toddlers with disabilities; and

(b) Provides information to parents of infants and toddlers through primary referral sources in accordance with §303.301.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(6))

34 CFR §303.301 Public awareness program--information for parents.

(a) Preparation and dissemination. In accordance with §303.116, each system must include a public awareness program that requires the lead agency to--

(1)(i) Prepare information on the availability of early intervention services under this part, and other services, as described in paragraph (b) of this section; and

(ii) Disseminate to all primary referral sources (especially hospitals and physicians) the information to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning or developmental complications; and

(2) Adopt procedures for assisting the primary referral sources described in §303.303(c) in disseminating the information described in paragraph (b) of this section to parents of infants and toddlers with disabilities.

(b) Information to be provided. The information required to be prepared and disseminated under paragraph (a) of this section must include--

(1) A description of the availability of early intervention services under this part;

(2) A description of the child find system and how to refer a child under the age of three for an evaluation or early intervention services; and

(3) A central directory, as described in §303.117.

(c) Information specific to toddlers with disabilities. Each public awareness program also must include a requirement that the lead agency provide for informing parents of toddlers with disabilities of the availability of services under section 619 of the Act not fewer than 90 days prior to the toddler's third birthday.

(Authority: 20 U.S.C. 1435(a)(6), 1437(a)(9))

The goal of the public awareness program is to increase the early identification of and service to infants and toddlers with disabilities and their families with an emphasis on cultural and geographic diversity, especially in rural areas in accordance with 34 CFR § 303.30. All primary referral sources, including hospitals and physicians, will be provided information to inform parents of available services to premature infants or have other risk factors associated with learning or developmental complications.

CENTRAL DIRECTORY

34 CFR §303.117 Central directory.

Each system must include a central directory that is accessible to the general public (i.e., through the lead agency's Web site and other appropriate means) and includes accurate, up-to-date information about--

(a) Public and private early intervention services, resources, and experts available in the State;

(b) Professional and other groups (including parent support, and training and information centers, such as those funded under the Act) that provide assistance

to infants and toddlers with disabilities eligible under Part C of the Act and their families; and

(c) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(7))

The Joint Oklahoma Information Network (211/JOIN) database is Oklahoma's central directory. The JOIN network is a statewide community resource directory that provides a statewide database of information as a resource to parents, communities, and professionals. Through this system, users may complete an eligibility questionnaire to assist in locating services for which they may be eligible to receive. A local toll-free number for all communities (2-1-1), is available to every family and professional in Oklahoma including individuals with vision and hearing challenges.

The Oklahoma Parent Center (OPC) in collaboration with the SoonerStart program provides a statewide toll-free phone service to all families with children with disabilities. This service provides one-on-one consultation to provide families referral and advocacy resources. A telecommunication device (TDD) for the deaf is available. The OPC is a key component to the SoonerStart public awareness program.

SERVICE COORDINATION

34 §303.34 Service coordination services (case management).

(a) General. (1) As used in this part, service coordination services mean services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child's family to receive the services and rights, including procedural safeguards, required under this part.

(2) Each infant or toddler with a disability and the child's family must be provided with one service coordinator who is responsible for--

(i) Coordinating all services required under this part across agency lines; and

(ii) Serving as the single point of contact for carrying out the activities described in paragraphs (a)(3) and (b) of this section.

(3) Service coordination is an active, ongoing process that involves--

(i) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this part; and

(ii) Coordinating the other services identified in the IFSP under §303.344(e) that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.

(b) Specific service coordination services. Service coordination services include--
(1) Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;

- (2) *Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;*
 - (3) *Coordinating evaluations and assessments;*
 - (4) *Facilitating and participating in the development, review, and evaluation of IFSPs;*
 - (5) *Conducting referral and other activities to assist families in identifying available EIS providers;*
 - (6) *Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure that the services are provided in a timely manner;*
 - (7) *Conducting follow-up activities to determine that appropriate Part C services are being provided;*
 - (8) *Informing families of their rights and procedural safeguards, as set forth in subpart E of this part and related resources;*
 - (9) *Coordinating the funding sources for services required under this part; and*
 - (10) *Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.*
- (c) Use of the term service coordination or service coordination services. The lead agency's or an EIS provider's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act--Medicaid), for purposes of claims in compliance with the requirements of §§303.501 through 303.521 (Payor of last resort provisions).*
- (Authority: 20 U.S.C. 1432(4), 1435(a)(4), 1436(d)(7), 1440)*

Upon receipt of an initial referral, the Regional Coordinator will assign an OSDE Service Coordinator to the family within two working days. The service coordinator will provide services in accordance with 34 § 303.34. Some of the core service coordinator responsibilities include: (1) making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families for community services as appropriate; (2) ensuring the timely provision of services; (3) conducting follow-up activities to determine that the appropriate Part C services are being provided; (4) informing families of their rights and procedural safeguards; and (5) coordinating the funding sources for services required under IDEA Part C. Once an Individualized Family Service Plan (IFSP) has been developed, the OSDE Service Coordinator, with the consent of the family, may designate a qualified member of the IFSP team to serve as the family's service coordinator. The role and duties as defined in 34 § 303.34 will be assigned to this individual and documented on the IFSP.

REFERRAL

34 CFR §303.303 Referral procedures.

- (a) General. (1) The lead agency's child find system described in §303.302 must include the State's procedures for use by primary referral sources for referring a child under the age of three to the Part C program.*
- (2) The procedures required in paragraph (a)(1) of this section must--*

- (i) Provide for referring a child as soon as possible, but in no case more than seven days, after the child has been identified; and
 - (ii) Meet the requirements in paragraphs (b) and (c) of this section.
 - (b) Referral of specific at-risk infants and toddlers. The procedures required in paragraph (a) of this section must provide for requiring the referral of a child under the age of three who--
 - (1) Is the subject of a substantiated case of child abuse or neglect; or
 - (2) Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
 - (c) Primary referral sources. As used in this subpart, primary referral sources include--
 - (1) Hospitals, including prenatal and postnatal care facilities;
 - (2) Physicians;
 - (3) Parents, including parents of infants and toddlers;
 - (4) Child care programs and early learning programs;
 - (5) LEAs and schools;
 - (6) Public health facilities;
 - (7) Other public health or social service agencies;
 - (8) Other clinics and health care providers;
 - (9) Public agencies and staff in the child welfare system, including child protective service and foster care;
 - (10) Homeless family shelters; and
 - (11) Domestic violence shelters and agencies.
- (Authority: 20 U.S.C. 1412(a)(3)(A), 1431, 1434(1), 1435(a)(2), 1435(a)(5), 1435(a)(6), 1435(c)(2)(G), 1437(a)(6), 1437(a)(10), 1441)

Primary referral sources are required to refer any child suspected of having a developmental delay no later than seven days after identification.

POST REFERRAL ACTIVITIES

34 CFR §303.310 Post-referral timeline (45 days).

- (a) Except as provided in paragraph (b) of this section, any screening under §303.320 (if the State has adopted a policy and elects, and the parent consents, to conduct a screening of a child); the initial evaluation and the initial assessments of the child and family under §303.321; and the initial IFSP meeting under §303.342 must be completed within 45 days from the date the lead agency or EIS provider receives the referral of the child.
- (b) Subject to paragraph (c) of this section, the 45-day timeline described in paragraph (a) of this section does not apply for any period when--
 - (1) The child or parent is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or

(2) The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the lead agency or EIS provider to obtain parental consent.

(c) The lead agency must develop procedures to ensure that in the event the circumstances described in (b)(1) or (b)(2) of this section exist, the lead agency or EIS provider must--

(1) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the lead agency or EIS provider to obtain parental consent;

(2) Complete the screening (if applicable), the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in paragraph (b)(1) of this section no longer exist or parental consent is obtained for the screening (if applicable), the initial evaluation, and the initial assessment of the child; and

(3) Develop and implement an interim IFSP, to the extent appropriate and consistent with §303.345.

(d) The initial family assessment must be conducted within the 45-day timeline in paragraph (a) of this section if the parent concurs and even if other family members are unavailable.

(Authority: 20 U.S.C. 1433, 1435(a), 1436(c))

An official referral is considered to be made on the date on which the SoonerStart site receives information from a referral source regarding a child with a suspected or identified developmental delay. The Regional Coordinator will assign the referral to a Service Coordinator within two working days from the official referral date. The SoonerStart team has 45-days from this referral date to complete the evaluation determination process and (if eligible) complete the Initial Individualized Family Service Plan (IFSP). Exceptions to the 45-day time line can be made for family circumstances (see §303.310(b)(2)).

The Service Coordinator will initiate contact the family within two working days to provide the family an overview of the program and schedule the initial family contact (IFC). Written notice will be sent to the family to confirm the appointment (the action proposed), the reason for the meeting (screening, evaluation, or other activity), and a copy of the Parents Rights for SoonerStart Services: Notice of Procedural Safeguards document and a notice describing the SoonerStart record maintenance, destruction, retention, and storage policies.

If the family provides written information from a medical professional that the child has a diagnosed syndrome or condition that results in a high probability of delay (see automatic qualifying syndromes and conditions), an initial IFSP can be completed.

If a child is referred to SoonerStart fewer than 45 days prior to the child's third birthday SoonerStart will not conduct an initial evaluation, assessment and initial IFSP meeting for the child

INTERIM INDIVIDUALIZED FAMILY SERVICE PLANS

34 CFR §303.345 Interim IFSPs--provision of services before evaluations and assessments are completed.

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessments in §303.321, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes--

(1) The name of the service coordinator who will be responsible, consistent with §303.344(g), for implementing the interim IFSP and coordinating with other agencies and persons; and

(2) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(c) Evaluations and assessments are completed within the 45-day timeline in §303.310.

(Authority: 20 U.S.C. 1436(c))

An interim Individualized Family Service Plan (IFSP) may be developed and implemented by the IFSP team when a family has documentation pending of a diagnosis or other documents that could be used to determine eligibility. The initial IFSP must not be delayed due to the use of an Interim IFSP. The full IFSP must be completed within 45 days from the date of the referral.

DEVELOPMENTAL SCREENING

34 CFR §303.320 Screening procedures (optional).

(a) General. (1) The lead agency may adopt procedures, consistent with the requirements of this section, to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of having a disability under this part. If the lead agency or EIS provider proposes to screen a child, it must--

(i) Provide the parent notice under §303.421 of its intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation under §303.321 at any time during the screening process; and

(ii) Obtain parental consent as required in §303.420(a)(1) before conducting the screening procedures.

(2) If the parent consents to the screening and the screening or other available information indicates that the child is--

(i) Suspected of having a disability, after notice is provided under §303.421 and once parental consent is obtained as required in §303.420, an evaluation and assessment of the child must be conducted under §303.321; or

(ii) Not suspected of having a disability, the lead agency or EIS provider must ensure that notice of that determination is provided to the parent under §303.421, and that the notice describes the parent's right to request an evaluation.

(3) *If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted under §303.321, even if the lead agency or EIS provider has determined under paragraph (a)(2)(ii) of this section that the child is not suspected of having a disability.*

(b) *Definition of screening procedures. Screening procedures--*

(1) *Means activities under paragraphs (a)(1) and (a)(2) of this section that are carried out by, or under the supervision of, the lead agency or EIS provider to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and*

(2) *Includes the administration of appropriate instruments by personnel trained to administer those instruments.*

(c) *Condition for evaluation or early intervention services. For every child under the age of three who is referred to the Part C program or screened in accordance with paragraph (a) of this section, the lead agency is not required to--*

(1) *Provide an evaluation of the child under §303.321 unless the child is suspected of having a disability or the parent requests an evaluation under paragraph (a)(3) of this section; or*

(2) *Make early intervention services available under this part to the child unless a determination is made that the child meets the definition of infant or toddler with a disability under §303.21.*

(Authority: 20 U.S.C. 1432(4)(E)(ix), 1434(1), 1435(a)(2), 1435(a)(5) and (a)(6), 1435(c)(2)(G), 1437(a)(6), 1439(a)(6))

A screening is used to provide the family with information to determine if the family would like to pursue a multidisciplinary evaluation. The service coordinator will provide the family written notice of the programs intent to screen and obtain written parental consent before screening or evaluation activities are conducted. A screening may not be used to determine program eligibility, but can be used as a resource for families to help them determine if they want to pursue a multidisciplinary evaluation. After the screening has been completed, the service coordinator will provide the family with written notice of the screening results and a printed copy of the Parents Rights for SoonerStart Services document.

MULTIDISCIPLINARY EVALUATION AND ELIGIBILITY

34 CFR §303.24 Multidisciplinary.

Multidisciplinary means the involvement of two or more separate disciplines or professions and with respect to--

(a) *Evaluation of the child in §§303.113 and 303.321(a)(1)(i) and assessments of the child and family in §303.321(a)(1)(ii), may include one individual who is qualified in more than one discipline or profession; and*

(b) *The IFSP Team in §303.340 must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with §303.343(a)(1)(iv)).*

(Authority: 20 U.S.C. 1221e-3, 1435(a)(3), 1436(a)(1), 1436(a)(3))

34 CFR §303.321 Evaluation of the child and assessment of the child and family.

(a) *General.* (1) *The lead agency must ensure that, subject to obtaining parental consent in accordance with §303.420(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability, receives--*

(i) *A timely, comprehensive, multidisciplinary evaluation of the child in accordance with paragraph (b) of this section unless eligibility is established under paragraph (a)(3)(i) of this section; and*

(ii) *If the child is determined eligible as an infant or toddler with a disability as defined in §303.21--*

(A) *A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;*

(B) *A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described in paragraph (c) of this section and these assessments may occur simultaneously with the evaluation, provided that the requirements of paragraph (b) of this section are met.*

(2) *As used in this part--*

(i) *Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of infant or toddler with a disability in §303.21. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility under this part;*

(ii) *Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this part and includes the assessment of the child, consistent with paragraph (c)(1) of this section and the assessment of the child's family, consistent with paragraph (c)(2) of this section; and*

(iii) *Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.*

(3)(i) *A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this part if those records indicate that the child's level of functioning in one or more of the developmental areas identified in §303.21(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under §303.21. If the child's Part C eligibility is established under this paragraph, the lead agency or EIS provider must conduct assessments of the child and family in accordance with paragraph (c) of this section.*

(ii) *Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the lead agency must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish*

eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under paragraph (b) of this section.

(4) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.

(5) Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of native language in §303.25.

(6) Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of native language in §303.25.

(b) Procedures for evaluation of the child. In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under this part. Procedures must include--

(1) Administering an evaluation instrument;

(2) Taking the child's history (including interviewing the parent);

(3) Identifying the child's level of functioning in each of the developmental areas in §303.21(a)(1);

(4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and

(5) Reviewing medical, educational, or other records.

(c) Procedures for assessment of the child and family. (1) An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following--

(i) A review of the results of the evaluation conducted under paragraph (b) of this section;

(ii) Personal observations of the child; and

(iii) The identification of the child's needs in each of the developmental areas in §303.21(a)(1).

(2) A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must--

(i) Be voluntary on the part of each family member participating in the assessment;

(ii) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and

(iii) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

(Authority: 20 U.S.C. 1435(a)(3), 1435(a)(5), 1436(a)(1)-(2))

The purpose of the initial multidisciplinary evaluation and assessment is to determine a child's eligibility for IDEA Part C service and is based upon the child's functioning in five developmental areas: cognitive; physical, including vision and hearing; communication; social or emotional; and adaptive.

The evaluation team will consist of person(s) representing two or more separate disciplines or professions.

SoonerStart will use nondiscriminatory procedures for evaluation and assessment of the children and families which ensure, at a minimum, that:

- Tests and other evaluation materials, and procedures will be administered in the native language of the parents or other mode of communication, unless this will clearly not be feasible;
- Any evaluation, assessment, evaluation procedures, and materials that will be used will be selected and administered so as not to be racially or culturally discriminatory; and
- No single procedure will be used as the sole criterion for determining a child's eligibility.

A multidisciplinary evaluation team will administer a minimum of two independent procedures to document the current levels of performance. One procedure must be norm-referenced. The second procedure could include information sources, such as medical records, social service records, parent and provider interviews, anecdotal information, and child observation records. Preexisting evaluation findings including standardized tools and criterion- or curriculum-based tools (6 months old or less) may be used. Parent consent is required prior to the administration of any evaluation. A copy of the evaluation results must be provided to the family in a timely manner and at no cost to the parents.

Informed clinical opinion is required as an integral part of an eligibility determination. It provides a necessary safeguard against determination of eligibility based upon isolated information or test scores alone. Informed clinical opinion is especially important if there are no standardized measures, or if the standardized procedures are not appropriate for a given age or developmental area. A review of pertinent records including current health status and medical history, functional impact, and the implications of noted delays or differences in development should be considered. The multidisciplinary team must document the reason for determining the infant or toddler eligible for initial or continued SoonerStart services.

ELIGIBILITY

34 CFR §303.21 Infant or toddler with a disability.

(a) Infant or toddler with a disability means an individual under three years of age who needs early intervention services because the individual--

(1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

- (iv) *Social or emotional development.*
 - (v) *Adaptive development; or*
 - (2) *Has a diagnosed physical or mental condition that--*
 - (i) *Has a high probability of resulting in developmental delay; and*
 - (ii) *Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.*
 - (b) *Infant or toddler with a disability may include, at a State's discretion, an at-risk infant or toddler (as defined in §303.5).*
 - (c) *Infant or toddler with a disability may include, at a State's discretion, a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part until the child enters, or is eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this part must include--*
 - (1) *An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children ages three and older who receive Part C services pursuant to §303.211; and*
 - (2) *A written notification to parents of a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs under section 619 of the Act.*
- (Authority: 20 U.S.C. 1401(16), 1432(5))*

DEVELOPMENTAL DELAY

34 CFR §303.111 State definition of developmental delay.

Each system must include the State's rigorous definition of developmental delay, consistent with §§303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must--

- (a) *Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment procedures, consistent with §303.321, that will be used to measure a child's development; and*
- (b) *Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in §303.21(a)(1).*

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(1))

Oklahoma Early Intervention Act, Section 283.

A. The children eligible for entry into early intervention services in the State of Oklahoma shall be infants and toddlers age birth through two years (0-36) who are developmentally delayed. As used in this act “developmentally delayed” means children of the chronological age group specified in the section who:

1. Exhibit a delay in their developmental age of fifty percent (50%) or score two standard deviations below the mean in one of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development;

2. Exhibit a delay in their developmental age compared to their chronological age of twenty-five percent (25%) or score one and one-half standard deviations below the mean in two or more of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development.

3. Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformation of the brain, congenital infections and sensory abnormalities and impairments or identified syndromes.

B. The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions established in subsection A of this section whenever such modification is required to receive federal assistance under Part C of the IDEA, as may be amended (70-13-123).

Assessment of Child and Family

If an infant or toddler is determined eligible for SoonerStart services, the SoonerStart program will complete a multidisciplinary team assessment of the unique strengths and needs of the infant or toddler and the identification of services necessary to meet those needs. A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family’s capacity to meet the developmental needs of that infant or toddler will also be conducted. The family-directed assessment is voluntary on the part of the family. The initial assessment(s) must be completed before the initial IFSP. If an assessment of child and family is completed, a copy of the assessment must be provided to the family at no cost.

Continued Eligibility Criteria

Anytime continued eligibility is questioned a multidisciplinary team evaluation will be administered. Written parental consent is required. For the purposes of determining continued eligibility for early intervention services, the child must exhibit:

- A delay in their development age compared to their chronological age of 25 percent or score one and one-half standard deviation below the mean in one or more domains or sub-domain; or
- Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformation of

the brain, congenital infections, sensory abnormalities and impairments, identified syndromes (Appendix 1).

Ineligibility

34 CFR §303.322 Determination that a child is not eligible.

If, based on the evaluation conducted under §303.321, the lead agency determines that a child is not eligible under this part, the lead agency must provide the parent with prior written notice required in §303.421, and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under §303.430, such as requesting a due process hearing or mediation or filing a State complaint.

(Authority: 20 U.S.C. 1439(a)(6))

If the multidisciplinary Evaluation team determines a child is not eligible for services, the service coordinator will provide the parent(s) a written notice and a copy of the Parent's Rights for SoonerStart Services: Notice of Procedural Safeguards. The service coordinator must discuss the process in which the parent can choose to dispute the results of the evaluation.

INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP)

34 CFR §303.20 Individualized family service plan.

Individualized family service plan or IFSP means a written plan for providing early intervention services to an infant or toddler with a disability under this part and the infant's or toddler's family that--

(a) Is based on the evaluation and assessment described in §303.321;

(b) Includes the content specified in §303.344;

(c) Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (consistent with §303.420); and

(d) Is developed in accordance with the IFSP procedures in §§303.342, 303.343, and 303.345.

(Authority: 20 U.S.C. 1401(15), 1435(a)(4), 1436)

34 CFR §303.340 Individualized family service plan--general.

For each infant or toddler with a disability, the lead agency must ensure the development, review, and implementation of an individualized family service plan or IFSP developed by a multidisciplinary team, which includes the parent, that--

(a) Is consistent with the definition of that term in §303.20; and

(b) Meets the requirements in §§303.342 through 303.346 of this subpart.

(Authority: 20 U.S.C. 1435(a)(4), 1436)

34 CFR §303.342 Procedures for IFSP development, review, and evaluation.

(a) Meeting to develop initial IFSP--timelines. For a child referred to the Part C program and determined to be eligible under this part as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in §303.310.

(b) Periodic review. (1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine--

(i) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

(ii) Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.

(2) The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.

(c) Annual meeting to evaluate the IFSP. A meeting must be conducted on at least an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted under §303.321 must be used in determining the early intervention services that are needed and will be provided.

(d) Accessibility and convenience of meetings. (1) IFSP meetings must be conducted--

(i) In settings and at times that are convenient for the family; and

(ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(e) Parental consent. The contents of the IFSP must be fully explained to the parents and informed written consent, as described in §303.7, must be obtained, as required in §303.420(a)(3), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in §303.344(f)(1).

(Authority: 20 U.S.C. 1435(a)(4), 1436)

34 CFR §303.343 IFSP Team meeting and periodic review.

(a) Initial and annual IFSP Team meeting. (1) Each initial meeting and each annual IFSP Team meeting to evaluate the IFSP must include the following participants:

(i) The parent or parents of the child.

(ii) Other family members, as requested by the parent, if feasible to do so.

(iii) An advocate or person outside of the family, if the parent requests that the person participate.

(iv) The service coordinator designated by the public agency to be responsible for implementing the IFSP.

(v) A person or persons directly involved in conducting the evaluations and assessments in §303.321.

(vi) As appropriate, persons who will be providing early intervention services under this part to the child or family.

(2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

(i) Participating in a telephone conference call.

(ii) Having a knowledgeable authorized representative attend the meeting.

(iii) Making pertinent records available at the meeting.

(b) Periodic review. Each periodic review under §303.342(b) must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section.

(Authority: 20 U.S.C. 1435(a)(4), 1436)

34 CFR §303.344 Content of an IFSP.

(a) Information about the child's status. The IFSP must include a statement of the infant or toddler with a disability's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under §303.321.

(b) Family information. With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under §303.321(c)(2).

(c) Results or outcomes. The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine--

(1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

(2) Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.

(d) Early intervention services. (1) The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including--

(i) The length, duration, frequency, intensity, and method of delivering the early intervention services;

(ii)(A) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with §§303.13(a)(8), 303.26 and 303.126, or, subject to paragraph (d)(1)(ii)(B) of this section, a justification as to why an early intervention service will not be provided in the natural environment.

(B) The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not

providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be--

(1) Made by the IFSP Team (which includes the parent and other team members);

(2) Consistent with the provisions in §§303.13(a)(8), 303.26, and 303.126; and

(3) Based on the child's outcomes that are identified by the IFSP Team in paragraph (c) of this section;

(iii) The location of the early intervention services; and

(iv) The payment arrangements, if any.

(2) As used in paragraph (d)(1)(i) of this section--

(i) Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;

(ii) Method means how a service is provided;

(iii) Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and

(iv) Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).

(3) As used in paragraph (d)(1)(iii) of this section, location means the actual place or places where a service will be provided.

(4) For children who are at least three years of age, the IFSP must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.

(e) Other services. To the extent appropriate, the IFSP also must--

(1) Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this part; and

(2) If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services.

(f) Dates and duration of services. The IFSP must include--

(1) The projected date for the initiation of each early intervention service in paragraph (d)(1) of this section, which date must be as soon as possible after the parent consents to the service, as required in §§303.342(e) and 303.420(a)(3); and

(2) The anticipated duration of each service.

(g) Service coordinator. (1) The IFSP must include the name of the service coordinator from the profession most relevant to the child's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part), who will be responsible for implementing the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons.

(2) In meeting the requirements in paragraph (g)(1) of this section, the term "profession" includes "service coordination."

(h) Transition from Part C services. (1) The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with §§303.209 and 303.211(b)(6), from Part C services to--

(i) Preschool services under Part B of the Act, to the extent that those services are appropriate;

(ii) Part C services under §303.211; or

(iii) Other appropriate services.

(2) The steps required in paragraph (h)(1) of this section must include--

(i) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

(ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(iii) Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with §303.209(b) (and any policy adopted by the State under §303.401(e)) and, with parental consent if required under §303.414, transmission of additional information needed by the LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with §§303.340 through 303.345; and

(iv) Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child.

(Authority: 20 U.S.C. 1435(a)(10)(B), 1435(a)(16), 1436(a)(3), 1436(d), 1437(a)(9)-(10), 1440)

34 CFR §303.345 Interim IFSPs--provision of services before evaluations and assessments are completed.

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessments in §303.321, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes--

(1) The name of the service coordinator who will be responsible, consistent with §303.344(g), for implementing the interim IFSP and coordinating with other agencies and persons; and

(2) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(c) Evaluations and assessments are completed within the 45-day timeline in §303.310.

(Authority: 20 U.S.C. 1436(c))

34 CFR §303.346 Responsibility and accountability.

Each public agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. However, Part C of the Act does not require that any public agency or EIS provider be held

accountable if an eligible child does not achieve the growth projected in the child's IFSP.

(Authority: 20 U.S.C. 1436)

The IFSP is:

- A written plan developed jointly by the family and appropriate qualified personnel involved in the provision of early intervention services;
- Based on the multidisciplinary evaluation and assessment of the child and the assessment of the family;
- A document ensuring appropriate early intervention services agreed to by the IFSP team in the child's natural environment;
- A method of evaluating the extent of the child's progress toward meeting goals; and
- A transition plan including appropriate steps and activities to ensure a smooth and effective transition to IDEA Part B or other services.

In accordance with IDEA Part C, the lead agency will ensure that:

- An IFSP is developed and implemented for each eligible child and family;
- Service coordination is available to each child and family; and
- The content of the IFSP is fully explained to parents.

If a parent indicates that they do not wish to proceed further with the IFSP process at any point, the program is not obligated to complete an IFSP until such time as the parent re-initiates the process.

Informed written consent from the parent(s) must be obtained prior to the provision of early intervention services described in the IFSP. If the parent(s) do not provide consent for a particular early intervention service or withdraw consent after first providing it, that service may not be provided. If a parent revokes consent, the revocation is not retroactive. The early intervention services to which the parental consent is obtained must be provided.

Parents of eligible children may determine if they, their child, or other family member will accept or decline any early intervention service under this part in accordance with state law and may decline such a service after first accepting it without jeopardizing other early intervention services under this part.

If parental consent is not given, reasonable efforts must be made to ensure that the parent fully understands the nature of the evaluation, assessments, and/or services that would be available. In addition, the child will not receive the evaluation, assessments and/or services unless consent is given.

For a child who has been evaluated for the first time and determined to be eligible for SoonerStart services, a meeting to develop the initial IFSP will be conducted within a 45 calendar day time period. The 45-day time period begins on the date on which the SoonerStart regional coordinator or designee receives the referral information.

The 45 day timeline may be extended in accordance with 34 CFR 303.310 if the family is unavailable or does not give consent to complete the screening, the initial evaluation, the initial assessment of the child and family, or the initial IFSP meeting due to exceptional family circumstances. Exceptional family circumstances or repeated attempts to obtain parental consent must be documented in the child's SoonerStart record.

Services documented on the IFSP must be initiated as soon as possible from the day the parent provides consent for the services, but minimally within the timeline established by the Oklahoma State Performance Plan.

IFSP Team

The IFSP team must consist of, but not limited to:

- The parent(s);
- Two or more individuals from separate disciplines or professions including:
 - a. The service coordinator (consistent with CFR 34 § 303.343)
 - b. A person(s) directly involved in the evaluation and/or assessment of the child;
- As appropriate, the person(s) who will be providing SoonerStart services; and
- Upon the request of the parent, an advocate or person outside the family.

If a person(s) directly involved in conducting the evaluation or assessment is unable to attend the meeting, arrangements must be made for the person(s) involvement by other means.

Periodic Reviews

Periodic IFSP reviews for a child and the child's family will be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

- The degree to which progress toward achieving the results or outcomes is being made;
- Whether or not modification or revision of the results or outcomes of services is necessary; and
- Determination as to whether or not generation of new outcomes and/or courses of action are necessary.

Those attending the periodic review must include, but are not limited to:

- The parent(s);
- The service coordinator.

Interim IFSP

An interim IFSP may be written before evaluation/assessment activities are completed or additional documentation is received for infants and toddlers that are potentially eligible for services. An interim IFSP may be written if the following conditions are met: (a) early intervention services are determined needed immediately by the family; (b) an interim IFSP is developed including the name of the service coordinator, and (c) parental consent is obtained. The evaluation, assessment and initial IFSP must be completed within the 45-day timeline.

IFSP

Initial IFSP meetings, periodic reviews and annual IFSP meetings will be conducted:

- In settings and at times that are convenient to families, and
- In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

Meeting arrangements will be made with, and written notice provided to the family and other participants early enough before the meeting date to ensure that they will be able to participate.

The content of the IFSP must be fully explained to the family and informed written consent obtained prior to the provision of SoonerStart services.

Statement of Present Levels of Development

The IFSP document will contain a statement of the child's present levels of development including:

- Physical development (including vision, hearing, and health status);
- Cognitive development;
- Communication development;
- Social or development; and
- Adaptive development.

Family Resources, Priorities, and Concerns

The identification of family resources, priorities, and concerns will be based on an individual family's determination of which aspects of family life are most relevant to the child's development. Any discussion of family resources, priorities, and concerns must be voluntary on the part of the family.

Other Services

The IFSP team, to the extent appropriate, will identify services that the child and family needs or is receiving through other sources, but are neither required nor funded under Part C (34 CFR § 303.344(e)(1)).

Outcomes

The IFSP must include a statement of measureable results or outcomes expected to be achieved for the child and family (including pre-literacy and language skills, as developmentally appropriate for the child). The IFSP must include the criteria, procedures and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the expected results or outcomes or early intervention services are necessary.

Service Delivery

The IFSP document will contain a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the child and the family to achieve the outcomes specified on the IFSP. This statement will include the following:

- The projected dates for initiation of services, anticipated duration, frequency, intensity, length, location, method of delivering services, and other services the child and family needs or is receiving through other sources, but that are neither required nor funded under IDEA Part C;
- The natural environments in which services will be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment.
- The payment arrangements, if any, for the services documented on the IFSP.

Identification of Service Coordinator

The IFSP document will include the name of the service coordinator (or person who is qualified to carry out all applicable responsibilities in accordance with 34 CFR § 303.34) who will be responsible for the implementation of the IFSP and coordination with other agencies and persons, including transition services.

Transition Plan

The IFSP will include steps and services to be taken to ensure a smooth and effective transition for toddlers receiving early intervention services to preschool under IDEA Part B or other appropriate services. The content of the transition plan on the IFSP must include all elements documented in 34 CFR § 303.344(h)(2).

Payor

The IFSP must document the payment arrangements, and identification of potential funding sources in accordance with 34 CFR § 303.344.

Annual Review

A meeting must be conducted on at least an annual basis to evaluate and to revise, as appropriate, the IFSP for a child and child's family.

A copy of the initial IFSP and any subsequent reviews must be provided to the family in a timely manner at no cost to the family (303.409c)).

TRANSITION

34 CFR §303.401(d) Disclosure of information.

(1) Subject to paragraph (e) of this section, the lead agency must disclose to the SEA and the LEA where the child resides, in accordance with §303.209(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under the Act:

(i) A child's name.

(ii) A child's date of birth.

(iii) Parent contact information (including parents' names, addresses, and telephone numbers).

(2) The information described in paragraph (d)(1) of this section is needed to enable the lead agency, as well as LEAs and SEAs under Part B of the Act, to identify all children potentially eligible for services under §303.211 and Part B of the Act.

34 CFR §303.209 Transition to preschool and other programs.

(a) *Application requirements. Each State must include the following in its application:*

(1) *A description of the policies and procedures it will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under this part to--*

(i) *Preschool or other appropriate services (for toddlers with disabilities); or*

(ii) *Exiting the program for infants and toddlers with disabilities.*

(2) *A description of how the State will meet each of the requirements in paragraphs (b) through (f) of this section.*

(3)(i)(A) *If the lead agency is not the SEA, an interagency agreement between the lead agency and the SEA; or*

(B) *If the lead agency is the SEA, an intra-agency agreement between the program within that agency that administers Part C of the Act and the program within the agency that administers section 619 of the Act.*

(ii) *To ensure a seamless transition between services under this part and under Part B of the Act, an interagency agreement under paragraph (a)(3)(i)(A) of this section or an intra-agency agreement under paragraph (a)(3)(i)(B) of this section must address how the lead agency and the SEA will meet the requirements of paragraphs (b) through (f) of this section (including any policies adopted by the lead agency under §303.401(d) and (e)), §303.344(h), and 34 CFR 300.101(b), 300.124, 300.321(f), and 300.323(b).*

(4) *Any policy the lead agency has adopted under §303.401(d) and (e).*

(b) *Notification to the SEA and appropriate LEA. (1) The State lead agency must ensure that--*

(i) *Subject to paragraph (b)(2) of this section, not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the lead agency notifies the SEA and the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law;*

(ii) *Subject to paragraph (b)(2) of this section, if the lead agency determines that the toddler is eligible for early intervention services under Part C of the Act more than 45 but less than 90 days before that toddler's third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the lead agency, as soon as possible after determining the child's eligibility, notifies the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or*

(iii) *Subject to paragraph (b)(2) of this section, if a toddler is referred to the lead agency fewer than 45 days before that toddler's third birthday and that toddler may be eligible for preschool services under Part B of the Act, the lead agency, with parental consent required under §303.414, refers the toddler to the SEA and the LEA for the area in which the toddler resides; but, the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.*

(2) *The State must ensure that the notification required under paragraphs (b)(1)(i) and (b)(1)(ii) of this section is consistent with any policy that the State has adopted, under §303.401(e), permitting a parent to object to disclosure of personally identifiable information.*

(c) *Conference to discuss services. The State lead agency must ensure that--*

(1) *If a toddler with a disability may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days--and, at the discretion of all parties, not more than 9 months--before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act; and.*

(2) *If the lead agency determines that a toddler with a disability is not potentially eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.*

(d) *Transition plan. The State lead agency must ensure that for all toddlers with disabilities--*

(1)(i) *It reviews the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year; and*

(ii) *Each family of a toddler with a disability who is served under this part is included in the development of the transition plan required under this section and §303.344(h);*

(2) *It establishes a transition plan in the IFSP not fewer than 90 days--and, at the discretion of all parties, not more than 9 months--before the toddler's third birthday; and*

(3) *The transition plan in the IFSP includes, consistent with §303.344(h), as appropriate--*

(i) *Steps for the toddler with a disability and his or her family to exit from the Part C program; and*

(ii) *Any transition services that the IFSP Team identifies as needed by that toddler and his or her family.*

(e) *Transition conference and meeting to develop transition plan. Any conference conducted under paragraph (c) of this section or meeting to develop the transition plan under paragraph (d) of this section (which conference and meeting may be combined into one meeting) must meet the requirements in §§303.342(d) and (e) and 303.343(a).*

(f) *Applicability of transition requirements. (1) The transition requirements in paragraphs (b)(1)(i) and (b)(1)(ii), (c)(1), and (d) of this section apply to all toddlers with disabilities receiving services under this part before those toddlers turn age three, including any toddler with a disability under the age of three who is served by a State that offers services under §303.211.*

(2) *In a State that offers services under §303.211, for toddlers with disabilities identified in §303.209(b)(1)(i), the parent must be provided at the transition conference conducted under paragraph (c)(1) of this section:*

(i) *An explanation, consistent with §303.211(b)(1)(ii), of the toddler's options to continue to receive early intervention services under this part or preschool services under section 619 of the Act.*

(ii) *The initial annual notice referenced in §303.211(b)(1).*

(3) *For children with disabilities age three and older who receive services pursuant to §303.211, the State must ensure that it satisfies the separate transition requirements in §303.211(b)(6)(ii).*

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1412(a)(3) and (a)(9), 1436(a)(3), 1437(a)(9))

34 CFR §303.210 Coordination with Head Start and Early Head Start, early education, and child care programs.

(a) *Each application must contain a description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, et seq, as amended), early education and child care programs, and services under this part.*

(Approved by Office of Management and Budget under control number 1820-0550)

(b) *The State lead agency must participate, consistent with section 642B(b)(1)(C)(viii) of the Head Start Act, on the State Advisory Council on Early Childhood Education and Care established under the Head Start Act.*

(Authority: 20 U.S.C. 1437(a)(10))

Transition

The SoonerStart service coordinator is responsible for providing transition services for all eligible children. An IFSP review must be completed a minimum of 90 days (and at the discretion of all parties not more than 9 months) before the child's third birthday. An IFSP plan must be developed that includes steps to support transition activities for the toddler and his/her family to exit from the SoonerStart program and assistance to access one or more of the following:

- IDEA Part B Services;
- Head Start;
- Early Head Start;
- Child Care Programs, or
- Other appropriate services in accordance with 34 CFR § 303.344(h).

Transition Notification

The SoonerStart program will disclose child-find information to the State Education Agency (SEA) and the Local Education Agency (LEA) for the area in which a potentially eligible toddler(s) resides the following personally identifying information (in accordance with 34 CFR § 303.401(d)):

- Child name;

- Child date of birth; and
- Parent contact information (include parents name, address, and telephone number).

With parental written consent, SoonerStart will provide the LEA child specific information not fewer than 90 days before the third birthday of a child who may be eligible for preschool services under IDEA Part B services.

Transition

If a child is referred to SoonerStart fewer than 45 days prior to the child's third birthday SoonerStart will not conduct an initial evaluation, assessment and initial IFSP meeting for the child. SoonerStart will refer the parent to the LEA or other appropriate community services.

If a child is referred to SoonerStart between 45 and 90 days prior to the child's third birthday SoonerStart is required to conduct an initial evaluation, assessment and initial IFSP meeting for the child. If the child is determined eligible, SoonerStart must develop a transition plan on the IFSP. A transition planning conference may take place but is not required. If the child is potentially eligible for IDEA Part B services, SoonerStart will notify the LEA for the area in which the toddler resides that the toddler on his/her birthday will reach the age of eligibility for IDEA Part B services as soon as possible.

If a child is referred to SoonerStart more than 90 days before the child's third birthday, the transition plan on the IFSP must be initiated not less than 90 days and at the discretion of all parties, not more than 9 months before the toddlers third birthday.

With the approval of the parents, the service coordinator will convene a transition planning conference (TPC) with the LEA not less than 90 days but not more than nine months before the child's third birthday for children potentially eligible for IDEA Part B services.

Upon referral, the local education agency (LEA) is responsible for determining eligibility for special education under Part B of IDEA and developing an individualized education program (IEP) meeting the requirements of the Policies and Procedures for Special Education in Oklahoma.

If a parent does not choose to refer their child for IDEA Part B services, a service coordinator must make reasonable efforts to convene a conference with the family, and providers of other appropriate services, to discuss the options available for children within the community.

NATURAL ENVIRONMENT

34 CFR §303.126 Early intervention services in natural environments.

Each system must include policies and procedures to ensure, consistent with §§303.13(a)(8) (early intervention services), 303.26 (natural environments), and 303.344(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided--

(a) To the maximum extent appropriate, in natural environments; and

(b) In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(16))

Natural environment means that, to the maximum extent appropriate, early intervention services must be provided in the home and community settings. A location is a natural environment if it is:

- The child's home;
- Where this child would go if he or she did not have a disability;
- Where other children go who do not have disabilities; or
- In part of the community where children and families without disabilities spend time when they are not being treated or tested for illness or health issues.

If the IFSP team concludes that segregated services in a location other than a natural environment are the most appropriate setting for service, a written plan shall be on the IFSP including:

- An explanation of why the setting is the most appropriate;
- Specific objectives to be achieved in the setting;
- Location of services; and
- Intensity and duration of services (specific beginning and ending date).

PROCEDURAL SAFEGUARDS

34 CFR §303.400 General responsibility of lead agency for procedural safeguards.

Subject to paragraph (c) of this section, each lead agency must--

(a) Establish or adopt the procedural safeguards that meet the requirements of this subpart, including the provisions on confidentiality in §§303.401 through 303.417, parental consent and notice in §§303.420 and 303.421, surrogate parents in §303.422, and dispute resolution procedures in §303.430;

(b) Ensure the effective implementation of the safeguards by each participating agency (including the lead agency and EIS providers) in the statewide system that is involved in the provision of early intervention services under this part; and

(c) Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.

(Authority: 20 U.S.C. 1439(a))

Procedural safeguards (Parents Rights for SoonerStart Services-Notice of Procedural Safeguards) establish and define the process by which infants and toddlers with disabilities and their families will be assured of their rights and the Oklahoma Early Intervention Act (see Appendix 1).

OSDE as the lead agency for Part C, is responsible for:

- Establishing or adopting procedural safeguards that meet requirements of this subpart; and
- Ensuring effective implementation of the safeguards by each public agency in the State involved in the provision of early intervention services.

Confidentiality and Opportunity to Examine Records

34 CFR §303.401 Confidentiality and opportunity to examine records.

(a) General. Each State must ensure that the parents of a child referred under this part are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.

(b) Confidentiality procedures. As required under sections 617(c) and 642 of the Act, the regulations in §§303.401 through 303.417 ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including the State lead agency and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. Each State must have procedures in effect to ensure that--

(1) Participating agencies (including the lead agency and EIS providers) comply with the Part C confidentiality procedures in §§303.401 through 303.417; and

(2) The parents of infants or toddlers who are referred to, or receive services under this part, are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under this part, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this part.

(c) Applicability and timeframe of procedures. The confidentiality procedures described in paragraph (b) of this section apply to the personally identifiable information of a child and the child's family that--

(1) Is contained in early intervention records collected, used, or maintained under this part by the lead agency or an EIS provider; and

(2) Applies from the point in time when the child is referred for early intervention services under this part until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and State laws.

(d) Disclosure of information. (1) Subject to paragraph (e) of this section, the lead agency must disclose to the SEA and the LEA where the child resides, in accordance with §303.209(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under the Act:

(i) A child's name.

(ii) A child's date of birth.

(iii) Parent contact information (including parents' names, addresses, and telephone numbers).

(2) The information described in paragraph (d)(1) of this section is needed to enable the lead agency, as well as LEAs and SEAs under Part B of the Act, to identify all children potentially eligible for services under §303.211 and Part B of the Act.

(e) Option to inform a parent about intended disclosure. (1) A lead agency, through its policies and procedures, may require EIS providers, prior to making the limited disclosure described in paragraph (d)(1) of this section, to inform parents of a toddler with a disability of the intended disclosure and allow the parents a specified time period to object to the disclosure in writing.

(2) If a parent (in a State that has adopted the policy described in paragraph (e)(1) of this section) objects during the time period provided by the State, the lead agency and EIS provider are not permitted to make such a disclosure under paragraph (d) of this section and §303.209(b)(1)(i) and (b)(1)(ii).

(Authority: 20 U.S.C. 1412(a)(8), 1412(a)(9), 1417(c), 1435(a)(5), 1437(a)(9), 1439(a)(2), 1439(a)(4), 1439(a)(6), 1442)

Early Intervention records are defined as Educational Records in accordance with the Family Educational Rights and Privacy Act (FERPA). Confidential early intervention records include files, documents, both written and electronic, and other materials that contain information directly related to a child, and are maintained by the SoonerStart program.

In accordance with the Confidentiality of Information procedures in this notice, SoonerStart must provide the parent the opportunity to inspect and review any records relating to the child which are collected, maintained or used by SoonerStart under Part C including: evaluations and assessments, eligibility determinations, development and implementation of IFSPs, individual complaints dealing with the child, and any other area under SoonerStart involving records about the child and family. SoonerStart must respond to a request without unnecessary delay and before any meeting regarding an IFSP or hearing relating to identification, evaluation, or placement of the child, and in no case more than 10 days after the request has been made.

The right to inspect and review records includes:

1. The right to a response from SoonerStart to reasonable requests for explanations and interpretations of the record;
2. The right to request that SoonerStart provide records containing the information if failure to provide those copies would effectively prevent the child from exercising the right to inspect and review the records; and
3. The rights to have someone representing the parent inspect and review the record.

SoonerStart may presume that the parent has the authority to inspect and review records relating to the child unless it has been advised that the parent does not have the authority under applicable state laws governing such matters as guardianship, separation and divorce.

If any record includes information on more than one child, the parent may inspect and review only the information relating to the child, or to be informed of that specific information.

SoonerStart may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parent from exercising their right to inspect and review those records. SoonerStart may not charge a fee to search for or to retrieve information under IDEA Part C.

Parental consent must be obtained before personally identifiable information is: (a) disclosed to anyone other than officials of SoonerStart collecting or using information under IDEA Part C, subject to paragraph (2) of this section; or (b) used for any purpose other than meeting a requirement under IDEA Part C.

34 CFR §303.402 Confidentiality.

The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by the Secretary and by lead agencies and EIS providers pursuant to Part C of the Act, and consistent with §§303.401 through 303.417. The regulations in §§303.401 through 303.417 ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including the State lead agency and EIS providers, in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR part 99.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1442)

SoonerStart protects the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. Information from the child's early intervention record cannot be released to agencies outside the SoonerStart program without the parents' consent unless authorized to do so under FERPA.

SoonerStart staff will not disclose to anyone, other than the parent(s), records that did not originate with the program.

34 CFR §303.403 Definitions.

The following definitions apply to §§303.402 through 303.417 in addition to the definition of personally identifiable information in §303.29 and disclosure in 34 CFR 99.3:

(a) Destruction means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under §303.29.

(b) Early intervention records mean all records regarding a child that are required to be collected, maintained, or used under Part C of the Act and the regulations in this part.

(c) Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of the Act and the regulations in this part with respect to a particular child. A participating agency includes the lead agency and EIS

providers and any individual or entity that provides any Part C services (including service coordination, evaluations and assessments, and other Part C services), but does not include primary referral sources, or public agencies (such as the State Medicaid or CHIP program) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.
(Authority: 20 U.S.C. 1221e-3, 1417(c), 1435(a)(5), 1439(a)(2), 1442)

34 CFR §303.404 Notice to parents.

The lead agency must give notice when a child is referred under Part C of the Act that is adequate to fully inform parents about the requirements in §303.402, including--

(a) 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;

(b) 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;

(c) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions in §§303.401 through 303.417; and

(d) A description of the extent that the notice is provided in the native languages of the various population groups in the State.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1442)

At the initial meeting with the family, the service coordinator is responsible for providing a description the types of information the SoonerStart programs maintains and the record schedule used to maintain and destroy records. The service coordinator will inform the parents of their rights under the Family Educational Rights and Privacy Act (FERPA) as amended and the Individuals with Disabilities Education Act (IDEA) regarding personally identifiable information which is maintained by the SoonerStart program.

34 CFR §303.405 Access rights.

(a) Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §§303.430(d) and 303.435 through 303.439, and in no case more than 10 days after the request has been made.

(b) The right to inspect and review early intervention records under this section includes--

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;

(2) The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies

would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) *The right to have a representative of the parent inspect and review the early intervention records.*

(c) *An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.*

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

SoonerStart shall permit parents to inspect and review the child's early intervention record. Parents of eligible children shall be provided the opportunity to examine and obtain one copy of such records at no expense without unnecessary delay, in no case more than ten (10) days after the request has been made.

34 CFR §303.406 Record of access.

Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

SoonerStart must keep a record of parties obtaining access to early intervention records collected, obtained, or used under Part C (except access by *parents* and authorized employees of SoonerStart), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the child's record.

34 CFR §303.407 Records on more than one child.

If any early intervention record includes information on more than one child, the parents 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.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

If any record includes information on more than one child, parents of those children have the right to examine only the information relating to their child and to be informed of that specific information.

34 CFR §303.408 List of types and locations of information.

Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

SoonerStart staff shall, upon request, provide the parent(s) with a list of the types and location of records collected, maintained, or used by the agency as follows, including screening, evaluation, assessment, eligibility determinations, or the development and implementation of IFSPs; individual complaints dealing with children or families; and any other area involving records about children or families.

34 CFR §303.409 Fees for records.

(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in paragraph (c) of this section.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(c) A participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.

(Authority: 20 U.S.C. 1417(c), 1432(4)(B), 1439(a)(2), 1439(a)(4), 1442)

The SoonerStart program may charge a fee for copies of records that are made for parents not to exceed \$.25 cents per page. The SoonerStart program must not apply a fee for searching or retrieving the information or a fee for copying of evaluation, child and family assessments, and IFSP's made for the family immediately following these activities.

34 CFR §303.410 Amendment of records at a parent's request.

(a) A parent who believes that information in the early intervention records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.

(b) The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §303.411.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

If the parent believes that information in records collected, maintained, or used under IDEA Part C is inaccurate or misleading, or violates the privacy or other rights of the child or family, the parent may submit a request to the SoonerStart Regional Coordinator to amend the information.

34 CFR §303.411 Opportunity for a hearing.

The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in §303.430(d)(1) provided that such

hearing procedures meet the requirements of the hearing procedures in §303.413 or may request a hearing directly under the State's procedures in §303.413 (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

If SoonerStart decides to amend the information in accordance with the request, the parent will receive a copy of the amended record and provide the parent with Written Notice of the change.

If SoonerStart refuses to amend the information in accordance with the request, the parent will be informed of the refusal through Written Notice and be advised of the right to a hearing. The program must, on request, provide the parent an opportunity to request a due process hearing to challenge information in the SoonerStart record regarding the child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

34 CFR §303.412 Result of hearing.

(a) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the early intervention records of the child under this section must-

(1) Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

If, as a result of the due process hearing, the hearing officer decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, SoonerStart will amend the information accordingly and will inform the parent in writing.

If, as a result of the due process hearing, SoonerStart decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the parent will be informed of the right to place in the records of the child a statement commenting on the information and setting forth any reasons for disagreeing with the decision of SoonerStart.

Any explanation placed in the records of the child under this section must: (a) be maintained by SoonerStart as part of the records of the child as long as the record or contested portion (that part of the record with which the parent disagrees) is maintained by SoonerStart; and (b) if the

records of the child or the contested portion is disclosed by SoonerStart to any party, the explanation must also be disclosed to the party.

34 CFR §303.413 Hearing procedures.

A hearing held under §303.411 must be conducted according to the procedures under 34 CFR 99.22.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

A hearing held under this section must be conducted according to the procedures under Family Education Rights and Privacy Act (FERPA), which is found in federal regulations at 34 CFR Part 99.

34 CFR §303.414 Consent prior to disclosure or use.

(a) Except as provided in paragraph (b) of this section, prior parental consent must be obtained before personally identifiable information is--

(1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) A lead agency or other participating agency may not disclose personally identifiable information, as defined in §303.29, to any party except participating agencies (including the lead agency and EIS providers) that are part of the State's Part C system without parental consent unless authorized to do so under--

(1) Sections 303.401(d), 303.209(b)(1)(i) and (b)(1)(ii), and 303.211(b)(6)(ii)(A); or

(2) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this part, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR part 99 to Part C, the reference to--

(i) 34 CFR 99.30 means §303.414(a);

(ii) "Education records" means early intervention records under §303.403(b);

(iii) "Educational" means early intervention under this part;

(iv) "Educational agency or institution" means the participating agency under §303.404(c);

(v) "School officials and officials of another school or school system" means qualified personnel or service coordinators under this part;

(vi) "State and local educational authorities" means the lead agency under §303.22; and

(vii) "Student" means child under this part.

(c) The lead agency must provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part), provided that those procedures do not override a parent's right to refuse consent under §303.420.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

The parent(s) shall be informed of their right to sign or refuse to sign a release of records allowing an early intervention provider to disclose personally identifiable information to others for legitimate purposes. The release of records form shall list the specific agencies, providers or the individuals (by name or position) to whom information may be given and the type of information that might be given. The parent(s) shall be given an opportunity to limit the information and the recipients of the information released; the release of records form shall provide space for such limitations. The release shall be revocable by the parents and parents shall be informed of this fact.

If the parent(s) does not give consent for release of personally identifiable information, SoonerStart shall document this fact.

34 CFR §303.415 Safeguards.

(a) Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.

(b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §§303.401 through 303.417 and 34 CFR part 99.

(d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

A designated staff member shall be responsible for the control of confidential records and for the implementation of policies and procedures pertaining to confidential information. Access to personally identifiable information is limited to professional staff providing direct service to the child and family, plus such other staff who are administratively authorized. Records must be secured and reasonably protected against fire, water damage, and other hazards, including a procedure for regular and routine backup of data files for electronic systems. A working case file may be maintained to assist with the routine provision of services, and such files should be viewed only by authorized individuals, including the family. Working files should be secured against access by unauthorized persons and should contain only that personally identifiable information needed to provide services. All early intervention programs shall take steps to protect the confidentiality of all information at collection, storage, disclosure, and destruction stages.

All persons collecting or using personally identifiable information must receive training or instruction regarding SoonerStart Policies and Procedures under IDEA Part C and FERPA. SoonerStart maintains, for public inspection, a current listing of the names and positions of those employees within the program who have access to personally identifiable information.

34 CFR §303.416 Destruction of information.

(a) The participating agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide services to the child under Part C of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80.

(b) Subject to paragraph (a) of this section, the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of service coordinator(s) and EIS provider(s), and exit data (including year and age upon exit, and any programs entered into upon exiting) may be maintained without time limitation.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

Child/family record(s) shall be maintained a minimum of seven years following the child's last date of SoonerStart services. The SoonerStart program has determined that personally identifiable information collected, maintained or used under this part is no longer needed after this time period. The SoonerStart program will destroy child/family records in accordance with its applicable approved record retention schedule. SoonerStart shall be allowed to maintain a permanent record of a child's name, address, phone number, attendance record, program(s) attended, services received, and the year the child and family exited the program.

34 CFR §303.417 Enforcement.

The lead agency must have in effect the policies and procedures, including sanctions and the right to file a complaint under §§303.432 through 303.434, that the State uses to ensure that its policies and procedures, consistent with §§303.401 through 303.417, are followed and that the requirements of the Act and the regulations in this part are met.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

SoonerStart sites must comply with the provisions of State and federal laws regarding confidentiality of records generated under the IDEA. SoonerStart sites are subject to compliance reviews and sanctions regarding the requirement for these provisions under the FERPA.

Parental Consent and Notice

34 CFR §303.420 Parental consent and ability to decline services.

(a) The lead agency must ensure parental consent is obtained before--

- (1) Administering screening procedures under §303.320 that are used to determine whether a child is suspected of having a disability;*
- (2) All evaluations and assessments of a child are conducted under §303.321;*
- (3) Early intervention services are provided to the child under this part;*
- (4) Public benefits or insurance or private insurance is used if such consent is required under §303.520; and*
- (5) Disclosure of personally identifiable information consistent with §303.414.*

(b) If a parent does not give consent under paragraph (a)(1), (a)(2), or (a)(3) of this section, the lead agency must make reasonable efforts to ensure that the parent--

(1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and

(2) Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.

(c) The lead agency may not use the due process hearing procedures under this part or Part B of the Act to challenge a parent's refusal to provide any consent that is required under paragraph (a) of this section.

(d) The parents of an infant or toddler with a disability--

(1) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under this part at any time, in accordance with State law; and

(2) May decline a service after first accepting it, without jeopardizing other early intervention services under this part.

(Authority: 20 U.S.C. 1436(e), 1439(a)(3))

SoonerStart sites must comply with the provisions of State and federal laws regarding parental consent and ability to decline services in accordance with 34 CFR § 303.420. SoonerStart sites are subject to compliance reviews and sanctions regarding the requirement for these provisions.

Written Notice

34 CFR §303.421 Prior written notice and procedural safeguards notice.

(a) General. Prior written notice must be provided to parents a reasonable time before the lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

(b) Content of notice. The notice must be in sufficient detail to inform parents about--

(1) The action that is being proposed or refused;

(2) The reasons for taking the action; and

(3) All procedural safeguards that are available under this subpart, including a description of mediation in §303.431, how to file a State complaint in §§303.432 through 303.434 and a due process complaint in the provisions adopted under §303.430(d), and any timelines under those procedures.

(c) Native language. (1) The notice must be--

(i) Written in language understandable to the general public; and

(ii) Provided in the native language, as defined in §303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) *If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider must take steps to ensure that--*

(i) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;

(ii) The parent understands the notice; and

(iii) There is written evidence that the requirements of this paragraph have been met.

(Authority: 20 U.S.C. 1439(a)(6)-(7))

Written notice must be given to the parent within a reasonable time before SoonerStart proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to a child and family.

The notice must be sufficient and detailed to inform the parent about:

1. A description of the action proposed or refused by the SoonerStart site;
2. An explanation of why the SoonerStart site proposes or refuses to take the action;
3. A description of any other options that the SoonerStart site considered and the reasons why those options were rejected;
4. A description of each evaluation procedure, test, record, or report the SoonerStart site uses as a basis for the proposal or refusal;
5. A description of any other factors that is relevant to the SoonerStart sites proposal or refusal;
6. A statement that the parents of an infant or toddler with a disability have protection under the procedural safeguards of this part and, if this notice is not part of an initial evaluation, the means by which a copy of a description of procedural safeguards may be obtained; and
7. Sources for parents to contact to obtain assistance and understanding of the provisions of this part.

The notice must be:

1. Written in language understandable to the general public and provided in the parent's *native language* unless it is clearly not feasible to do so.
2. If the parent(s) *native language* or other mode of communication is not a written language, the resource coordinator must take steps to ensure that:
 - a. The notice is translated orally or by other means to the parent's *native language* or other mode of communication;
 - b. Written in a manner in which the parent understands the notice; and
 - c. There is written evidence that (a) and (b) have been met.
3. If the parent is deaf, blind, unable to read, or has no written language, the mode of communication used must be the mode of communication normally used by the parent (such as sign language, Braille, or oral communication).

Surrogate Parents

34 CFR §303.422 Surrogate parents.

(a) *General.* Each lead agency or other public agency must ensure that the rights of a child are protected when--

(1) No parent (as defined in §303.27) can be identified;

(2) The lead agency or other public agency, after reasonable efforts, cannot locate a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) *Duty of lead agency and other public agencies.* (1) The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for--

(i) Determining whether a child needs a surrogate parent; and

(ii) Assigning a surrogate parent to the child.

(2) In implementing the provisions under this section for children who are wards of the State or placed in foster care, the lead agency must consult with the public agency that has been assigned care of the child.

(c) *Wards of the State.* In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the lead agency under paragraph (b)(1) of this section, may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

(d) *Criteria for selection of surrogate parents.* (1) The lead agency or other public agency may select a surrogate parent in any way permitted under State law.

(2) Public agencies must ensure that a person selected as a surrogate parent--

(i) Is not an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;

(ii) Has no personal or professional interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

(e) *Non-employee requirement; compensation.* A person who is otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(f) *Surrogate parent responsibilities.* The surrogate parent has the same rights as a parent for all purposes under this part.

(g) *Lead agency responsibility.* The lead agency must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

(Authority: 20 U.S.C. 1439(a)(5))

The rights of children eligible under Part C are protected if:

1. No parent can be identified;

2. SoonerStart staff, after reasonable efforts, cannot discover the whereabouts of a parent;
3. Legal custody of the child and all parental rights and responsibilities for the care and custody of the child have been terminated by Court order; or
4. The child is a ward of the State under the laws of Oklahoma.

An individual is assigned to act as a surrogate for the *parent* according to the procedures that follow. The procedures include a method for determining whether a child needs a surrogate parent and assigning a surrogate to the child. The following criteria are employed when selecting surrogates:

1. Surrogate parents are selected in ways permitted by State law.
2. A person selected as a surrogate:
 - a. Has no interest that conflicts with the interest of the child he or she represents;
 - b. Has knowledge and skills that ensure adequate representation of the child;
 - c. Is not an employee of any agency or a person or an employee of a person providing early intervention services to the child or to any family member of the child. A person who otherwise qualifies to be a surrogate parent under this section is not an employee solely because he or she is paid by a public agency to serve as a surrogate parent; and
 - d. Resides in the same general geographic area as the child, whenever possible.

A surrogate parent may represent the child in all matters relating to:

1. The evaluation and assessment of the child;
 2. Development and implementation of the child's IFSPs, including annual evaluations and periodic reviews;
 3. The ongoing provision of early intervention services to the child; and
 4. Any other rights established under SoonerStart.
1. SoonerStart must make reasonable efforts to ensure the assignment of a surrogate is made not more than 30 days after there is a determination by SoonerStart that the child needs a surrogate.

Dispute Resolution Options

34 CFR §303.430 State dispute resolution options.

(a) General. Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in paragraphs (b) through (e) of this section.

(b) Mediation. Each lead agency must make available to parties to disputes involving any matter under this part the opportunity for mediation that meets the requirements in §303.431.

(c) State complaint procedures. Each lead agency must adopt written State complaint procedures to resolve any State complaints filed by any party regarding any violation of this part that meet the requirements in §§303.432 through 303.434.

- (d) *Due process hearing procedures.* Each lead agency must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in §303.421(a), by either adopting--
- (1) *The Part C due process hearing procedures under section 639 of the Act that--*
 - (i) *Meet the requirements in §§303.435 through 303.438; and*
 - (ii) *Provide a means of filing a due process complaint regarding any matter listed in §303.421(a); or*
 - (2) *The Part B due process hearing procedures under section 615 of the Act and §§303.440 through 303.449 (with either a 30-day or 45-day timeline for resolving due process complaints, as provided in §303.440(c)).*
- (e) *Status of a child during the pendency of a due process complaint.* (1) *During the pendency of any proceeding involving a due process complaint under paragraph (d) of this section, unless the lead agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.*
- (2) *If the due process complaint under paragraph (d) of this section involves an application for initial services under Part C of the Act, the child must receive those services that are not in dispute.*
- (Approved by Office of Management and Budget under control number 1820-0678 and 1820-NEW)*
- (Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439)*

Mediation

34 CFR §303.431 Mediation.

- (a) *General.* Each lead agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.
- (b) *Requirements.* The procedures must meet the following requirements:
- (1) *The procedures must ensure that the mediation process--*
 - (i) *Is voluntary on the part of the parties;*
 - (ii) *Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and*
 - (iii) *Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.*
 - (2)(i) *The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.*
 - (ii) *The lead agency must select mediators on a random, rotational, or other impartial basis.*
 - (3) *The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.*
 - (4) *Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.*

(5) *If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that--*

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(ii) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.

(6) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(7) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

(c) Impartiality of mediator. (1) An individual who serves as a mediator under this part--

(i) May not be an employee of the lead agency or an EIS provider that is involved in the provision of early intervention services or other services to the child; and

(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.

(2) A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator.

(d) Meeting to encourage mediation. A lead agency may establish procedures to offer to parents and EIS providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party--

(1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and

(2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(Approved by Office of Management and Budget under control number 1820-NEW)

(Authority: 20 U.S.C. 1415(e), 1439(a)(8))

Mediation is an effective way to resolve differences between the parent and SoonerStart. Mediation is free and conducted by someone who is not employed by the program.

Mediation is voluntary on the part of all parties. It may be requested by either party but must be attended and agreed upon by both parties. The parties involved may or may not have representation at the mediation; however, those persons attending should be in a position of authority to make decisions for the SoonerStart program and the child. Mediation may not be used to deny or delay the parent's right to a due process complaint hearing or to deny any other rights afforded under IDEA Part C. Trained, qualified, and impartial mediators are available, and

may be requested from the Early Settlement Centers of the Alternative Dispute Resolution System, under the direction of the Administrative Office of the Courts.

The OSDE-SES, must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of appropriate early intervention services. An individual who serves as a mediator may not be an employee of the program or state agency providing services to the child. They must not have a personal or professional conflict of interest. The state will bear the cost of the mediation process.

Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties and the dispute. An agreement reached by the parties in the mediation must be set forth in a written mediation agreement. This becomes a legally binding agreement.

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process complaint hearings or civil proceedings.

The parties in the mediation process may be required to sign a confidentiality pledge prior to the beginning of the process.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and:

1. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process complaint hearing or civil proceeding arising from that dispute; and
2. Is signed by both the parent and a representative of the program who has the authority to bind such an agreement.

A written, signed mediation agreement under this section is enforceable in any state court of competent jurisdiction or in a district court of the United States.

If the parent chooses not to use the mediation process, the program or a state agency providing services to the child may offer the parent and local SoonerStart site an opportunity to meet, at a time and location convenient to the parent, with a disinterested party, to encourage the use and explain the benefits of the mediation process. This party may be under contract with a parent training and information center, community parent resource center established in the state or with an appropriate alternative dispute resolution entity.

State Complaint Procedures

34 CFR §303.432 Adoption of State complaint procedures.

(a) General. Each lead agency must adopt written procedures for--

- (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in §303.434 by providing for the filing of a complaint with the lead agency; and*
- (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A)*

agencies, and other appropriate entities, the State procedures under §§303.432 through 303.434.

(b) Remedies for denial of appropriate services. In resolving a complaint in which the lead agency has found a failure to provide appropriate services, the lead agency, pursuant to its general supervisory authority under Part C of the Act, must address--

(1) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and

(2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

(Approved by Office of Management and Budget under control number 1820-NEW)

(Authority: 20 U.S.C. 1439(a)(1))

Procedural safeguards establish and define the process by which infants and toddlers with disabilities and their families will be assured of their rights and the Oklahoma Early Intervention Act.

OSDE, lead agency for Part C, is responsible for:

- Establishing or adopting procedural safeguards that meet requirements of this subpart;
- Ensuring effective implementation of the safeguards by each public agency in the State involved in the provision of early intervention services; and
- Ensuring the dissemination of the *SoonerStart Child and Family Safeguards* document in accordance with the IDEA Part C regulations.

34 CFR §303.433 Minimum State complaint procedures.

(a) Time limit; minimum procedures. Each lead agency must include in its complaint procedures a time limit of 60 days after a complaint is filed under §303.434 to--

(1) Carry out an independent on-site investigation, if the lead agency determines that an investigation is necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Provide the lead agency, public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum--

(i) At the discretion of the lead agency, a proposal to resolve the complaint; and

(ii) An opportunity for a parent who has filed a complaint and the lead agency, public agency, or EIS provider to voluntarily engage in mediation, consistent with §§303.430(b) and 303.431;

(4) Review all relevant information and make an independent determination as to whether the lead agency, public agency, or EIS provider is violating a requirement of Part C of the Act or of this part; and

(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains--

(i) Findings of fact and conclusions; and

- (ii) *The reasons for the lead agency's final decision.*
 - (b) *Time extension; final decision; implementation. The lead agency's procedures described in paragraph (a) of this section also must--*
 - (1) *Permit an extension of the time limit under paragraph (a) of this section only if--*
 - (i) *Exceptional circumstances exist with respect to a particular complaint; or*
 - (ii) *The parent (or individual or organization, if mediation is available to the individual or organization under State procedures) and the lead agency, public agency or EIS provider involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section; and*
 - (2) *Include procedures for effective implementation of the lead agency's final decision, if needed, including--*
 - (i) *Technical assistance activities;*
 - (ii) *Negotiations; and*
 - (iii) *Corrective actions to achieve compliance.*
 - (c) *Complaints filed under this section and due process hearings under §303.430(d). (1) If a written complaint is received that is also the subject of a due process hearing under §303.430(d), 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. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.*
 - (2) *If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties--*
 - (i) *The due process hearing decision is binding on that issue; and*
 - (ii) *The lead agency must inform the complainant to that effect.*
 - (3) *A complaint alleging a lead agency, public agency, or EIS provider's failure to implement a due process hearing decision must be resolved by the lead agency.*
- (Approved by Office of Management and Budget under control number 1820-NEW)*
- (Authority: 20 U.S.C. 1439(a)(1))*

The OSDE has available a formal complaint management system for filing and resolving specific complaints regarding alleged violations of the requirements under Part C of the Individuals with Disabilities Education Act (IDEA).

Parents and other interested individuals must be informed by the SoonerStart service coordinator about the complaint procedures, due process complaint hearings, mediation, and other forms of assistance to ensure compliance to resolve disputes.

If it is found through a complaint that the SoonerStart program failed to provide appropriate services to an infant or toddler, the resolution shall address both how to remediate the denial of services (which can include an award of compensatory services or other corrective action appropriate to the needs of the child) and how to provide appropriate services.

34 CFR §303.434 Filing a complaint.

(a) An organization or individual may file a signed written complaint under the procedures described in §§303.432 and 303.433.

(b) The complaint must include--

(1) A statement that the lead agency, public agency, or EIS provider has violated a requirement of Part C of the Act;

(2) The facts on which the statement is based;

(3) The signature and contact information for the complainant; and

(4) If alleging violations with respect to a specific child--

(i) The name and address of the residence of the child;

(ii) The name of the EIS provider serving the child;

(iii) A description of the nature of the problem of the child, including facts relating to the problem; and

(iv) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

(c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §303.432.

(d) The party filing the complaint must forward a copy of the complaint to the public agency or EIS provider serving the child at the same time the party files the complaint with the lead agency.

(Approved by Office of Management and Budget under control number 1820-NEW)

(Authority: 20 U.S.C. 1439(a)(1))

If the parent believes SoonerStart or a local SoonerStart site has violated a federal or state regulation, the parent may file a formal written complaint with the OSDE-SES, SoonerStart. Upon receiving the formal written complaint, an investigation will be completed. A formal written complaint is a written signed statement by an individual or organization, including a formal written complaint filed by an individual or organization from another state. The formal written complaint must include:

1. A statement that SoonerStart or a local SoonerStart Site has violated a requirement of Part C of the IDEA;
2. A statement of the facts on which the formal written complaint is based;
3. The original signature and contact information for the complainant; and
4. If alleging violations regarding a specific child:
 - a) The name of the child and address of the residence of the child;
 - b) The name of the SoonerStart site where the child and family are receiving services;
 - c) In the case of a homeless child or youth, available contact information for the child and the name of the SoonerStart site where the child is receiving services;
 - d) A description of the nature of the problem, including facts relating to the program; and
 - e) A proposed resolution of the problem to the extent known and available to the party filing the formal written complaint at the time the complaint is filed.

A form designated for this purpose is available from the OSDE-SES to assist parents in filing a Formal Written Complaint. A copy of the formal written complaint must be submitted to OSDE-

SES (Attention: SoonerStart Early Intervention Program, 2500 Lincoln Boulevard, Suite 510, Oklahoma City, Oklahoma 73105-4599) and a copy must be sent to the local SoonerStart site serving the child.

The dispute in question must not have occurred more than one year before the date that the formal written complaint is received by SoonerStart unless a longer period is reasonable because:

1. The dispute in question continues for that child; or
2. The complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the formal written complaint is received by SoonerStart.

SoonerStart will investigate all Formal Written Complaints made on behalf of children that are similarly situated at a site level unless specified otherwise.

The OSDE-SES, appoints a complaint investigator. The complaint investigator makes a recommendation to the OSDE-SES regarding the validity of the complaint. After reviewing all relevant information, the OSDE-SES, must determine whether the complaint is valid.

The investigator may conduct an on-site investigation if it determines that one is necessary. The complaint investigator must give the complainant the opportunity to submit additional information, in writing within the timeline permitted, about the allegations in the formal written complaint. The OSDE-SES, must submit a written report of the final decision to all parties involved, including findings of fact, conclusions, and reasons for final decision.

In resolving the formal written complaint in which the SoonerStart has found a failure to consider appropriate services, SoonerStart, pursuant to its general supervisory authority under Part C of the IDEA, must address:

1. How to remediate the denial of the appropriate services including, the awarding of compensatory services, monetary reimbursement or other corrective action appropriate to the needs of the child; and
2. Appropriate future provision of services for all children similarly situated.

All formal written complaints must be investigated within 60 calendar days after the receipt of the formal written complaint by the OSDE-SES. An extension of the 60 day time line may be granted only if exceptional circumstances exist with respect to a particular formal written complaint or if a mediation to resolve the formal written complaint is requested.

If a formal written complaint is received that is also the subject of a due process complaint hearing, or contains multiple issues, of which one or more are part of that hearing, SoonerStart must set aside any part of the formal written complaint that is being addressed in the due process complaint hearing, until the conclusion of the hearing. However, any issue in the formal written complaint that is not a part of the due process complaint hearing action must be resolved using the time line and procedures described in this section.

If an issue is raised in a formal written complaint filed under this section that has previously been decided in a due process complaint hearing involving the same parties:

1. The hearing decision is binding; and
2. SoonerStart must inform the complainant to that effect.

A complaint alleging a failure to implement a due process complaint hearing decision must be resolved by the OSDE-SES.

Due Process Hearing

States that Choose to Adopt the Part B Due Process Hearing Procedures under Section 615 of the Act §303.440 Filing a due process complaint.

(a) General.

(1) A parent, EIS provider, or a lead agency may file a due process complaint on any of the matters described in §303.421(a), relating to the identification, evaluation, or placement of a child, or the provision of early intervention services to the infant or toddler with a disability and his or her family under Part C of the Act.

(2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or EIS provider knew, or should have known, about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in §303.443(f) apply to the timeline in this section.

(b) Information for parents. The lead agency must inform the parent of any free or low-cost legal and other relevant services available in the area if--

(1) The parent requests the information; or

(2) The parent or EIS provider files a due process complaint under this section.

(c) Timeline for Resolution. The lead agency may adopt a 30- or 45-day timeline, subject to §303.447(a), for the resolution of due process complaints and must specify in its written policies and procedures under §303.123 and in its prior written notice under §303.421, the specific timeline it has adopted.

(Approved by Office of Management and Budget under control number 1820-NEW)

(Authority: 20 U.S.C. 1415(b)(6), 1439)

34 CFR §303.441 Due process complaint.

(a) General. (1) The lead agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).

(2) The party filing a due process complaint must forward a copy of the due process complaint to the lead agency.

(b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include--

(1) The name of the child;

(2) The address of the residence of the child;

(3) The name of the EIS provider serving the child;

(4) *In the case of a homeless child (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the EIS provider serving the child;*

(5) *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*

(6) *A proposed resolution of the problem to the extent known and available to the party at the time.*

(c) *Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.*

(d) *Sufficiency of complaint. (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.*

(2) *Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements in paragraph (b) of this section, and must immediately notify the parties in writing of that determination.*

(3) *A party may amend its due process complaint only if--*

(i) *The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to §303.442; or*

(ii) *The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.*

(4) *If a party files an amended due process complaint, the timelines for the resolution meeting in §303.442(a) and the time period to resolve in §303.442(b) begin again with the filing of the amended due process complaint.*

(e) *Lead agency response to a due process complaint. (1) If the lead agency has not sent a prior written notice under §303.421 to the parent regarding the subject matter contained in the parent's due process complaint, the lead agency or EIS provider must, within 10 days of receiving the due process complaint, send to the parent a response that includes--*

(i) *An explanation of why the lead agency or EIS provider proposed or refused to take the action raised in the due process complaint;*

(ii) *A description of other options that the IFSP Team considered and the reasons why those options were rejected;*

(iii) *A description of each evaluation procedure, assessment, record, or report the lead agency or EIS provider used as the basis for the proposed or refused action; and*

(iv) A description of the other factors that are relevant to the agency's or EIS provider's proposed or refused action.

(2) A response by the lead agency under paragraph (e)(1) of this section does not preclude the lead agency from asserting that the parent's due process complaint was insufficient, where appropriate.

(f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

(Authority: 20 U.S.C. 1415(b)(7), 1415(c)(2), 1439)

A parent or the SoonerStart program may initiate a hearing on any matters relating to the identification, evaluation or placement of the child or the provision of appropriate early intervention services to the child and family.

A parent or the SoonerStart program must request an impartial hearing on the due process complaint hearing request within two years of the date the parent or program knew or should have known about the alleged action that forms the basis of the due process complaint hearing request, or if the state has an explicit time limitation for requesting such a due process complaint hearing under Part C of IDEA.

The timeline described above does not apply to a parent if the parent was prevented from filing a due process complaint hearing request due to:

1. Specific misrepresentations by the program that it had resolved the problem forming the basis of the due process complaint hearing; or
2. The program's withholding of information from the parent that was required under Part C of IDEA to be provided to the parent.

SoonerStart must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information, or if the parent or SoonerStart site files a due process complaint.

SoonerStart must hold a resolution session within 15 days of receiving notice of the parents' due process complaint hearing request, and prior to the opportunity for a due process complaint hearing.

A party, parent or program, may not have a hearing on a due process complaint hearing request or engage in a resolution session until the party, or the attorney representing the party, files a due process complaint that meets the requirements of this section.

A due process complaint hearing request may be submitted by a parent, program, or an attorney representing either party. A copy must be submitted to the other party involved and the Oklahoma State Department of Education, Special Education Services (Attention: Due Process Complaint Hearings, 2500 North Lincoln Boulevard, Suite 510, Oklahoma City, Oklahoma 73105-4599) in writing, signed, and include:

1. The name of the child;
2. Date of birth of the child;
3. The address of the residence of the child and of the parents;
4. The name of the SoonerStart site providing services to the child;
5. In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the SoonerStart site providing early intervention services to the child;
6. 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;
7. A proposed resolution to the problem, to the extent known, and available to the party at the time; and
8. The reason for challenging the identification, evaluation, or location of the services provided to the child and the family.

SoonerStart has developed a form to assist parents in filing a complaint and due process complaint notice. A copy of the form can be requested from your resource coordinator or found on the State Department of Education website at <www.sde.state.ok.us or www.ok.gov/sde>.

A party may not have a due process complaint hearing until the party, or the attorney representing the party, files a notice that meets the requirements.

When a hearing is initiated, SoonerStart must inform the parent of the availability of mediation. If the parent is requesting a hearing or requesting information on any free or low-cost legal services, the program must inform the parent of it and any other relevant services available in the area.

The due process complaint notice must be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing, within 15 calendar days of receiving the due process complaint that the receiving party believes that the due process complaint does not meet the requirements stated above. Within 5 calendar days of receiving the notification the receiving party (the parent or SoonerStart) considers a due process complaint insufficient, the hearing officer must decide if the due process complaint meets the requirements listed above, and notify the parent and SoonerStart in writing immediately.

A party may amend its due process complaint hearing request only if:

1. The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint hearing request through a resolution session; or
2. The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time no later than five days before the due process complaint hearing begins.

The applicable timeline for a due process complaint hearing under Part C must recommence at the time the party files an amended notice, including the timeline for a resolution session.

If SoonerStart has not sent a prior written notice under Part C of IDEA to the parent regarding the subject matter contained in the parent's due process complaint hearing request, SoonerStart must, within 10 days of receiving the due process complaint hearing request, send to the parent a response that includes:

1. An explanation of why the SoonerStart site proposed or refused to take the action raised in the due process complaint hearing request;
2. A description of other options that the SoonerStart site considered and the reasons why those options were rejected;
3. A description of each evaluation procedure, assessment, record, or report the SoonerStart site used as the basis for the proposed or refused action; and
4. A description of the other factors that are relevant to the SoonerStart site's proposed or refused action.

A response by SoonerStart under this section must not be construed to preclude the program from asserting that the parent's due process complaint hearing request was insufficient, where appropriate.

Except as provided above, the party receiving a due process complaint hearing request must, within 10 days of receiving the due process complaint hearing request, send to the other party a response that specifically addresses the issues raised in the due process complaint hearing request.

Subject to this section, a hearing officer must make a decision on substantive grounds based on a determination of whether the child and the child's family received appropriate early intervention services.

In matters alleging a procedural violation, a hearing officer may find that a child or a child's family did not receive appropriate early intervention services only if the procedural inadequacies:

1. Impeded the child and family's right to appropriate early intervention services;
2. Significantly impeded the parent's opportunity to participate in the decision making process regarding the provision of appropriate early intervention service to the child and the child's family; or
3. Caused a deprivation of early intervention benefit.

Resolution Process

34 §303.442 Resolution process.

(a) Resolution meeting. (1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under §303.443, the lead agency must convene a meeting with the parent and the relevant member or members of the IFSP Team who have specific knowledge of the facts identified in the due process complaint that--

- (i) Includes a representative of the lead agency who has decision-making authority on behalf of that agency; and*
- (ii) May not include an attorney of the lead agency unless the parent is accompanied by an attorney.*

(2) *The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the lead agency has the opportunity to resolve the dispute that is the basis for the due process complaint.*

(3) *The meeting described in paragraphs (a)(1) and (a)(2) of this section need not be held if--*

(i) The parent and lead agency agree in writing to waive the meeting; or

(ii) The parent and lead agency agree to use the mediation process described in §303.431.

(4) *The parent and the lead agency must determine the relevant members of the IFSP Team to attend the meeting.*

(b) Resolution period. (1) If the lead agency has not resolved the due process complaint to the satisfaction of the parties within 30 days of the receipt of the due process complaint, the due process hearing may occur.

(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under §303.447 begins at the expiration of the 30-day period in paragraph (b)(1) of this section.

(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (b)(2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

(4) If the lead agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, including documenting its efforts, the lead agency may, at the conclusion of the 30-day period, request that the hearing officer dismiss the parent's due process complaint.

(5) If the lead agency fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

(c) Adjustments to 30-day resolution period. The 30- or 45-day timeline adopted by the lead agency under §303.440(c) for the due process hearing described in §303.447(a) starts the day after one of the following events:

(1) Both parties agree in writing to waive the resolution meeting.

(2) 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.

(3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or lead agency withdraws from the mediation process.

(d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (a)(2) of this section, the parties must execute a legally binding agreement that is--

(1) Signed by both the parent and a representative of the lead agency who has the authority to bind the agency; and

(2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the lead agency, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements pursuant to this section.

(e) Agreement review period. If the parties execute an agreement pursuant to paragraph (d) of this section, a party may void the agreement within three business days of the agreement's execution.

(Authority: 20 U.S.C. 1415(f)(1)(B), 1439)

SoonerStart must hold a resolution session within 15 days of receiving notice of the parents' due process complaint hearing request, and prior to the opportunity for a due process complaint hearing. The program must convene a meeting with the parents and the relevant member or members of the SoonerStart site who have specific knowledge of the facts identified in the due process complaint hearing request that:

1. Includes a representative of SoonerStart who has decision-making authority on behalf of the program; and
2. May not include an attorney of SoonerStart unless the parent is accompanied by an attorney.

The purpose of the resolution session is for the parents of the child to discuss their due process complaint hearing request, and the facts that form its basis, so that the program has the opportunity to resolve the dispute.

The resolution session described above need not be held if:

1. The parents and the program agree in writing to waive the meeting; or
2. The parents and the program agree to use the mediation process described in this document.

If SoonerStart has not resolved the due process complaint hearing issues to the satisfaction of the parents within 30 calendar days of the receipt of the due process complaint hearing request, the due process complaint hearing must occur and all applicable timelines for a due process complaint hearing must commence.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, the failure of a parent filing a due process complaint hearing request to participate in the resolution session will delay the timelines for the resolution process and due process complaint hearing until the parent agrees to participate in the resolution session.

If after making reasonable efforts and documenting such efforts, SoonerStart is not able to obtain the parent's participation in the resolution meeting, SoonerStart may, at the end of the 30 calendar-day resolution period, request that a hearing officer dismiss the due process complaint hearing request. Documentation of such effort must include a record of SoonerStart's attempts to arrange a mutually agreed upon time and place, such as:

1. Detailed records of telephone calls made or attempted and the results of those calls;
2. Copies of correspondence sent and any responses received; and

3. Detailed records of visits made to the home or place of employment and the results of those visits.

If SoonerStart fails to hold the resolution meeting within 15 calendar days of receiving notice of the due process complaint hearing request or fails to participate in the resolution session, you may ask a hearing officer that the 45 calendar-day due process complaint hearing timeline begin.

If the parent and SoonerStart agree in writing to waive the resolution meeting, the 45 calendar-day timeline for the due process complaint hearing starts the next day.

After the start of mediation or the resolution session and before the end of the 30 calendar-day resolution period, if the parent and SoonerStart agree in writing that no agreement is possible, then the 45 calendar-day timeline for the due process complaint hearing starts the next day.

If the parent and SoonerStart program agree to use the mediation process at the end of 30 calendar-day resolution session, both parties can agree in writing to continue the mediation until an agreement is reached. However, if either the parent or SoonerStart withdraws from the mediation process, the 45 calendar day timeline for the due process complaint hearing starts the next day.

If a resolution to the dispute is reached at the meeting described above, the parent and SoonerStart must execute a legally binding agreement that is:

1. Signed by both the parent and a representative of SoonerStart who has the authority to bind the program; and
2. Enforceable in any state court of competent jurisdiction or in a district court of the United States.

If the parent and SoonerStart enter into an agreement as a result of a resolution session, either party may void the agreement within 3 business days of the time that both the parent and SoonerStart signed the agreement.

A successful resolution session ends the due process complaint hearing procedure. If the resolution session ends without agreement, a hearing officer is appointed and a hearing is scheduled.

Impartial Due Process Hearing

34 CFR §303.443 Impartial due process hearing.

(a) General. Whenever a due process complaint is received consistent with §303.440, the parents or the EIS provider involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§303.440 through 303.442.

(b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the lead agency directly responsible for the early intervention services of the infant or toddler, as

determined under State statute, State regulation, or a written policy of the lead agency.

(c) Impartial hearing officer. (1) At a minimum, a hearing officer--

(i) Must not be--

(A) An employee of the lead agency or the EIS provider that is involved in the early intervention services or care of the infant or toddler; or

(B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;

(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) Each lead agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

(d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §303.441(b), unless the other party agrees otherwise.

(e) Timeline for requesting a hearing. A parent, lead agency, or EIS provider must request an impartial hearing on their due process complaint within two years of the date the parent, lead agency, or EIS provider knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.

(f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to--

(1) Specific misrepresentations by the lead agency or EIS provider that it had resolved the problem forming the basis of the due process complaint; or

(2) The lead agency's or EIS provider's failure to provide the parent information that was required under this part to be provided to the parent.

(Approved by Office of Management and Budget under control number 1820-NEW)

(Authority: 20 U.S.C. 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439)

At a minimum, a hearing officer:

1) Must not be:

a) An employee of any agency or other entity involved in the provision of early intervention services or care of the child; or

- b) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;
- 2) Must possess knowledge of, and the ability to understand, the provisions of IDEA, federal and Oklahoma State law and regulations pertaining to IDEA, and legal interpretations of IDEA by federal and state courts;
- 3) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and
- 4) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

A person who otherwise qualifies to conduct a hearing under this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The OSDE-SES must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

The party, parent or SoonerStart, requesting the due process complaint hearing may not raise issues at the due process complaint hearing that were not raised in the due process complaint unless the other party agrees otherwise.

34 CFR §303.444 Hearing rights.

(a) General. Any party to a hearing conducted pursuant to §§303.440 through 303.445, or an appeal conducted pursuant to §303.446, has the right to--

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of infants or toddlers with disabilities;

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

(4) Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing; and

(5) Obtain written or, at the option of the parents, electronic findings of fact and decisions.

(b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to §303.443(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(c) Parental rights at hearings. Parents involved in hearings must --

(1) Be given the right to open the hearing to the public; and

(2) Receive a copy of the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section at no cost.

(Authority: 20 U.S.C. 1415(f)(2), 1415(h), 1439)

Any party to a hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least 5 business days before the hearing;
4. Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and
5. Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

As a parent involved in the hearing, the parent has the right to:

1. Have the child who is the subject of the hearing present;
2. Open the hearing to the public; and
3. Have the record of the hearing, the findings of fact and decisions provided to parent at no cost.

At least 5 business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

A hearing officer may bar any party that fails to comply with the disclosure requirements of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

Hearing Decisions

34 CFR §303.445 Hearing decisions.

(a) Decision of hearing officer. (1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether an infant or toddler was appropriately identified, evaluated, or placed, or whether the infant or toddler with a disability and his or her family were appropriately provided early intervention services under Part C of the Act, must be based on substantive grounds.

(2) 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 under Part C of the Act only if the procedural inadequacies-

(i) Impeded the child's right to identification, evaluation, and placement or provision of early intervention services for the child and that child's family under Part C of the Act;

(ii) 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 that child's family under Part C of the Act; or

(iii) Caused a deprivation of educational or developmental benefit.

(3) *Nothing in paragraph (a) of this section precludes a hearing officer from ordering the lead agency or EIS provider to comply with procedural requirements under §§303.400 through 303.449.*

(b) *Construction clause. Nothing in §§303.440 through 303.445 affects the right of a parent to file an appeal of the due process hearing decision with the lead agency under §303.446(b), if the lead agency level appeal is available.*

(c) *Separate due process complaint. Nothing in §§303.440 through 303.449 precludes a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.*

(d) *Findings and decisions to general public. The lead agency, after deleting any personally identifiable information, must make the findings and decisions available to the public.*

(Authority: 20 U.S.C. 1415(f)(3)(E)-(F), 1415(h)(4), 1415(o), 1439)

Finality of Decision; Appeal; Impartial Review

34 CFR §303.446 Finality of decision; appeal; impartial review.

(a) *Finality of hearing decision. A decision made in a hearing conducted pursuant to §§303.440 through 303.445 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and §303.448.*

(b) *Appeal of decisions; impartial review. (1) The lead agency may provide for procedures to allow any party aggrieved by the findings and decision in the hearing to appeal to the lead agency.*

(2) *If there is an appeal, the lead agency must conduct an impartial review of the findings and decision appealed. The official conducting the review must--*

(i) *Examine the entire hearing record;*

(ii) *Ensure that the procedures at the hearing were consistent with the requirements of due process;*

(iii) *Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §303.444 apply;*

(iv) *Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;*

(v) *Make an independent decision on completion of the review; and*

(vi) *Give a copy of the written or, at the option of the parents, electronic findings of fact and decisions to the parties.*

(c) *Findings of fact and decision to the general public. The lead agency, after deleting any personally identifiable information, must make the findings of fact and decisions described in paragraph (b)(2)(vi) of this section available to the general public.*

(d) *Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under §303.448.*

(Authority: 20 U.S.C. 1415(g), 1415(h)(4), 1415(i)(1)(A), 1415(i)(2), 1439)

{Jo Ann do we need a reference to a Part C Appeal Review policy here}.

34 CFR §303.447 Timelines and convenience of hearings and reviews.

(a) The lead agency must ensure that not later than either 30 days or 45 days (consistent with the lead agency's written policies and procedures adopted under §303.440(c)) after the expiration of the 30-day period in §303.442(b), or the adjusted 30-day time periods described in §303.442(c)--

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

(b) The lead agency must ensure that not later than 30 days after the receipt of a request for a review--

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

(c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

(d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

(Authority: 20 U.S.C. 1415(f)(1)(B)(ii), 1415(g), 1415(i)(1), 1439)

Nothing in this section must be construed to preclude a parent from filing a separate due process complaint hearing request on an issue separate from a due process complaint hearing request already filed.

The record of the hearing and the findings of fact and decision must be provided at no cost to the parent.

SoonerStart, after deleting any personally identifiable information, must transmit the findings and decisions to the Interagency Coordinating Council (ICC), and make those findings and decisions available to the public upon request.

A decision made in a hearing is final, except that any party involved in the hearing may appeal the decision through requesting an appeal review through the OSDE-SES.

SoonerStart must ensure that not later than 45 days after the expiration of the 30 day period regarding a resolution session:

1. A final decision is reached in the hearing; and
2. A copy of the decision is mailed to each of the parties.

A hearing officer may grant specific extensions of time beyond the periods described above if the parent or SoonerStart makes a request for a specific extension of the timeline.

Each hearing and review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parent and child.

The decision made by the hearing officer is final unless the parent or SoonerStart brings a civil action, as described below.

Civil Action

34 §303.448 Civil action.

(a) *General.* Any party aggrieved by the findings and decision made under §§303.440 through 303.445 who does not have the right to an appeal under §303.446(b), and any party aggrieved by the findings and decision under §303.446(b), has the right to bring a civil action with respect to the due process complaint under §303.440. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

(b) *Time limitation.* The party bringing the action has 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part C of the Act, in the time allowed by that State law.

(c) *Additional requirements.* In any action brought under paragraph (a) of this section, the court--

- (1) *Receives the records of the administrative proceedings;*
- (2) *Hears additional evidence at the request of a party; and*
- (3) *Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.*

(d) *Jurisdiction of district courts.* The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.

(e) *Rule of construction.* Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§303.440 and 303.446 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

(Authority: 20 U.S.C. 1415(i)(2), 1415(i)(3)(A), 1415(l), 1439)

Any party aggrieved by the findings or decisions made through the hearing review process has the right to bring a civil action with respect to the complaint presented in the hearing. The action may be brought in any state court of competent jurisdiction or in a district court of the United States without regard to the amount of controversy. The party, parent or program, bringing the action must have 90 calendar days from the date of the decision of the appeal officer to file a civil action.

In any action brought under this section, the court:

1. Must receive the records of the administrative proceedings;
2. Must hear additional evidence at the request of a party; and
3. Bases its decision on the preponderance of the evidence, must grant the relief that the court determines to be appropriate.

The district courts of the United States have jurisdiction of actions brought under Part C of the IDEA without regard to the amount in dispute. Nothing in this part restricts or limits the rights, procedures, and remedies available under the US Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the IDEA, the due process complaint hearing procedures must be exhausted to the same extent as would be required had the action been brought under section 615 of the IDEA.

State Enforcement Mechanisms

34 CFR §303.449 State enforcement mechanisms.

Notwithstanding §§303.431(b)(6) and 303.442(d)(2), which provide for judicial enforcement of a written agreement reached as a result of a mediation or a resolution meeting, there is nothing in this part that would prevent the State from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court or competent jurisdiction or in a district court of the United States.

(Authority: 20 U.S.C. 1415(e)(2)(F), 1415(f)(1)(B), 1439)

USE OF IDEA PART C FUNDS AND PAYOR OF LAST RESORT

34 CFR §303.120 Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities

Each system must include a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following:

(b) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of this part.

34 CFR §303.202 Certification regarding financial responsibility.

Each application must include a certification to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under §303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services both meet the requirements in subpart F of this part (§§303.500 through 303.521) and are current as of the date of submission of the certification.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(2))

34 CFR §303.500 Use of funds, payor of last resort, and system of payments.

(a) Statewide system. Each statewide system must include written policies and procedures that meet the requirements of the--

(1) Use of funds provisions in §303.501; and

(2) Payor of last resort provisions in §§303.510 through 303.521 (regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the State).

(b) System of Payments. A State may establish, consistent with §§303.13(a)(3) and 303.203(b), a system of payments for early intervention services under Part C of the Act, including a schedule of sliding fees or cost participation fees (such as co-payments, premiums, or deductibles) required to be paid under Federal, State, local, or private programs of insurance or benefits for which the infant or toddler with a disability or the child's family is enrolled, that meets the requirements of §§303.520 and 303.521.

(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10)-(12), 1437(b), 1438, 1439(a), 1440)

Use of Funds

34 CFR §303.501 Permissive use of funds by the lead agency.

Consistent with §§303.120 through 303.122 and §§303.220 through 303.226, a lead agency may use funds under this part for activities or expenses that are reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities including funds--

(a) For direct early intervention services for infants and toddlers with disabilities and their families under this part that are not otherwise funded through other public or private sources (subject to §§303.510 through 303.521);

(b) To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available;

(c)(1) To provide FAPE as that term is defined in §303.15, in accordance with Part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year;

(2) The provision of FAPE under paragraph (c)(1) of this section does not apply to children who continue to receive early intervention services under this part in accordance with paragraph (d) of this section and §303.211;

(d) With the written consent of the parents, to continue to provide early intervention services under this part, in lieu of FAPE provided in accordance with Part B of the Act, to children with disabilities from their third birthday (pursuant to §303.211) until those children enter, or are eligible under State law to enter, kindergarten; and

(e) In any State that does not provide services under §303.204 for at-risk infants and toddlers, as defined in §303.5, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purposes of--

(1) Identifying and evaluating at-risk infants and toddlers;

- (2) *Making referrals for the infants and toddlers identified and evaluated under paragraph (e)(1) of this section; and*
- (3) *Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.*
- (Authority: 20 U.S.C. 1435(a)(10)–(12), 1437(b), 1438)*

Payor of Last Resort--General Provisions

34 CFR §303.510 Payor of last resort.

(a) Nonsubstitution of funds. Except as provided in paragraph (b) of this section, funds under this part may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of Part C of the Act. Therefore, funds under this part may be used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, State, local, or private source (subject to §§303.520 and 303.521).

(b) Interim payments--reimbursement. If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under this part may be used to pay the provider of services (for services and functions authorized under this part, including health services, as defined in §303.16 (but not medical services), functions of the child find system described in §§303.115 through 303.117 and §§303.301 through 303.320, and evaluations and assessments in §303.321), pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

(c) Non-reduction of benefits. Nothing in this part may be construed to permit a State to reduce medical or other assistance available in the State or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701, et seq. (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the Act.

(Authority: 20 U.S.C. 1435(a)(10)(B), 1437(a)(2), 1440(a), 1440(c))

34 CFR §303.511 Methods to ensure the provision of, and financial responsibility for, Part C services.

(a) General. Each State must ensure that it has in place methods for State interagency coordination. Under these methods, the Chief Executive Officer of a State or designee of the Officer must ensure that the interagency agreement or other method for interagency coordination is in effect between each State public agency and the designated lead agency in order to ensure--

(1) The provision of, and establishing financial responsibility for, early intervention services provided under this part; and

(2) *Such services are consistent with the requirement in section 635 of the Act and the State's application under section 637 of the Act, including the provision of such services during the pendency of any dispute between State agencies.*

(b) *The methods in paragraph (a) of this section must meet all requirements in this section and be set forth in one of the following:*

(1) *State law or regulation;*

(2) *Signed interagency and intra-agency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency (or entity within the agency); or*

(3) *Other appropriate written methods determined by the Governor of the State, or the Governor's designee, and approved by the Secretary through the review and approval of the State's application.*

(c) *Procedures for resolving disputes. (1) Each method must include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention service program. Those procedures must include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee, or the lead agency to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.*

(2) *The method must--*

(i) *Permit the agency to resolve its own internal disputes (based on the agency's procedures that are included in the agreement), so long as the agency acts in a timely manner; and*

(ii) *Include the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.*

(3) *If, during the lead agency's resolution of the dispute, the Governor, Governor's designee, or lead agency determines that the assignment of financial responsibility under this section was inappropriately made--*

(i) *The Governor, Governor's designee, or lead agency must reassign the financial responsibility to the appropriate agency; and*

(ii) *The lead agency must make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.*

(d) *Delivery of services in a timely manner. The methods adopted by the State under this section must--*

(1) *Include a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and*

(2) *Be consistent with the written funding policies adopted by the State under this subpart and include any provisions the State has adopted under §303.520 regarding the use of insurance to pay for Part C services.*

(e) *Additional components. Each method must include any additional components necessary to ensure effective cooperation and coordination among, and the lead agency's general supervision (including monitoring) of, EIS*

providers (including all public agencies) involved in the State's early intervention service programs.

(Authority: 20 U.S.C. 1435(a)(10), 1437(a)(2), 1440(b))

Oklahoma Early Intervention Act §70-13-121

§70-13-124. General administration, supervision and monitoring of programs and activities receiving federal and state funds - Continuation of certain existing services - Coordination of financial resources - Restricted use of monies.

A. *The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.*

B. *In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.*

C. *The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.*

D. *Pursuant to the requirements of Part H of the Individuals with Disabilities Education Act (IDEA), all financial resources from federal, state, local and private sources shall be coordinated to fund early*

intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

- 1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;*
- 2. Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;*
- 3. Feasibility of utilization of federal Title V funds;*
- 4. Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA);*
- 5. Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;*
- 6. Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and*
- 7. Utilization of funds received under Part H of the Individuals with Disabilities Education Act (IDEA).*

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state

may execute an agreement with a city/county health department or county health department to share appropriate facilities.

Added by Laws 1989, c. 102, § 4, operative July 1, 1989. Amended by Laws 1990, c. 51, § 137, emerg. eff. April 9, 1990; Laws 1990, c. 263, § 75, operative July 1, 1990; Laws 1991, c. 317, § 3, emerg. eff. June 12, 1991; Laws 1992, c. 373, § 18, eff. July 1, 1992; Laws 1993, c. 116, § 14, eff. July 1, 1993; Laws 1995, c. 137, § 4, eff. July 1, 1995.

NOTE: Laws 1991, c. 280, § 68 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

Oklahoma Early Intervention Act §70-13-121

§70-13-125. Contract between State Department of Education and State Department of Health specifying provision or arrangement of early intervention services.

A contract shall be entered into between the State Department of Education and the Oklahoma State Department of Health specifying the provision or arrangement of early intervention services by the Oklahoma State Department of Health. Such contract shall include, but not be limited to:

- 1. A delineation of individual and shared responsibilities for planning, administration and funding, multi-disciplinary evaluations, development of an individual family service plan, service delivery, procedural safeguards and liability of both agencies;*
- 2. Specification of the numbers and types of personnel to be provided under the contract;*
- 3. Provisions to be made by the Oklahoma State Department of Health for provision of services not available at a local level and authorization to subcontract with other public or private service providers; and*
- 4. Specification of all management and indirect costs associated with the Oklahoma State Department of Health's provision of early intervention services that are authorized for payment under the contract. Allowable management costs shall be limited to itemized early intervention specific travel, dedicated or shared personnel and maintenance and operations costs. Indirect costs shall not exceed those authorized by the indirect cost formula approved by the State Department of Education for the contract period. All other administrative, management or infrastructure cost recover methodologies shall be specifically disallowed for payment under the contract.*

Added by Laws 1989, c. 102, § 5, operative July 1, 1989. Amended by Laws 1999, c. 246, § 26, eff. July 1, 1999.

Payor of Last Resort & System of Payments Provisions--Use of Insurance, Benefits, Systems of Payments, and Fees

34 CFR §303.520 Policies related to use of public benefits or insurance or private insurance to pay for Part C services.

(a) Use of public benefits or public insurance to pay for Part C services.

(1) A State may not use the public benefits or insurance of a child or parent to pay for Part C services unless the State provides written notification, consistent with §303.520(a)(3), to the child's parents, and the State meets the no-cost protections identified in paragraph (a)(2) of this section.

(2) With regard to using the public benefits or insurance of a child or parent to pay for Part C services, the State--

(i) May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;

(ii) Must obtain consent, consistent with §§303.7 and 303.420(a)(4), to use a child's or parent's public benefits or insurance to pay for Part C services if that use would--

(A) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

(B) Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

(C) Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

(D) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.

(iii) If the parent does not provide consent under paragraphs (a)(2)(i) or (a)(2)(ii) of this section, the State must still make available those Part C services on the IFSP to which the parent has provided consent.

(3) Prior to using a child's or parent's public benefits or insurance to pay for Part C services, the State must provide written notification to the child's parents. The notification must include--

(i) A statement that parental consent must be obtained under §303.414, if that provision applies, before the State lead agency or EIS provider discloses, for billing purposes, a child's personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid);

(ii) A statement of the no-cost protection provisions in §303.520(a)(2) and that if the parent does not provide the consent under §303.520(a)(2), the State lead agency must still make available those Part C services on the IFSP for which the parent has provided consent;

(iii) A statement that the parents have the right under §303.414, if that provision applies, to withdraw their consent to disclosure of personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

(iv) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co-

payments or deductibles, or the required use of private insurance as the primary insurance).

(4) If a State requires a parent to pay any costs that the parent would incur as a result of the State's using a child's or parent's public benefits or insurance to pay for Part C services (such as co-payments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the State's system of payments policies under §303.521 and included in the notification provided to the parent under paragraph (a)(3) of this section; otherwise, the State cannot charge those costs to the parent.

(b) Use of private insurance to pay for Part C services. (1)(i) The State may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with §§303.7 and 303.420(a)(4), to use private insurance to pay for Part C services for his or her child or the State meets one of the exceptions in paragraph (b)(2) of this section. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained--

(A) When the lead agency or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and

(B) Each time consent for services is required under §303.420(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

(ii) If a State requires a parent to pay any costs that the parent would incur as a result of the State's use of private insurance to pay for early intervention services (such as co-payments, premiums, or deductibles), those costs must be identified in the State's system of payments policies under §303.521; otherwise, the State may not charge those costs to the parent

(iii) When obtaining parental consent required under paragraph (b)(1)(i) of this section or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service under paragraph (b)(2) of this section, the State must provide to the parent a copy of the State's system of payments policies that identifies the potential costs that the parent may incur when their private insurance is used to pay for early intervention services under this part (such as co-payments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).

(2) The parental consent requirements in paragraph (b)(1) of this section do not apply if the State has enacted a State statute regarding private health insurance coverage for early intervention services under Part C of the Act, that expressly provides that --

(i) The use of private health insurance to pay for Part C services cannot count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy;

(ii) *The use of private health insurance to pay for Part C services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under Part C of the Act; and*

(iii) *The use of private health insurance to pay for Part C services cannot be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.*

(3) *If a State has enacted a State statute that meets the requirements in paragraph (b)(2) of this section, regarding the use of private health insurance coverage to pay for early intervention services under Part C of the Act, the State may reestablish a new baseline of State and local expenditures under §303.225(b) in the next Federal fiscal year following the effective date of the statute.*

(c) *Inability to pay. If a parent or family of an infant or toddler with a disability is determined unable to pay under the State's definition of inability to pay under §303.521(a)(3) and does not provide consent under paragraph (b)(1), the lack of consent may not be used to delay or deny any services under this part to that child or family.*

(d) *Proceeds or funds from public insurance or benefits or from private insurance. (1) Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.*

(2) *If the State receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under Part C of the Act, those funds are considered neither State nor local funds under §303.225(b).*

(3) *If the State spends funds from private insurance for services under this part, those funds are considered neither State nor local funds under §303.225.*

(e) *Funds received from a parent or family member under a State's system of payments. Funds received by the State from a parent or family member under the State's system of payments established under §303.521 are considered program income under 34 CFR 80.25. These funds-*

(1) *Are not deducted from the total allowable costs charged under Part C of the Act (as set forth in 34 CFR 80.25(g)(1));*

(2) *Must be used for the State's Part C early intervention services program, consistent with 34 CFR 80.25(g)(2); and*

(3) *Are considered neither State nor local funds under §303.225(b).*

(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10), 1439(a))

34 CFR §303.521 System of payments and fees.

(a) *General. If a State elects to adopt a system of payments in §303.500(b), the State's system of payments policies must be in writing and specify which functions or services, if any, are subject to the system of payments (including any fees*

charged to the family as a result of using one or more of the family's public insurance or benefits or private insurance), and include--

(1) The payment system and schedule of sliding or cost participation fees that may be charged to the parent for early intervention services under this part;

(2) The basis and amount of payments or fees;

(3) The State's definition of ability to pay (including its definition of income and family expenses, such as extraordinary medical expenses), its definition of inability to pay, and when and how the State makes its determination of the ability or inability to pay;

(4) An assurance that--

(i) Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including those services identified under paragraphs (a)(4)(ii), (b), and (c) of this section);

(ii) The inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under this part to the child or the child's family such that, if the parent or family meets the State's definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost.

(iii) Families will not be charged any more than the actual cost of the Part C service (factoring in any amount received from other sources for payment for that service); and

(iv) Families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;

(5) Provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged; and

(6) Provisions that permit, but do not require, the lead agency to use Part C or other funds to pay for costs such as the premiums, deductibles, or co-payments.

(b) Functions not subject to fees. The following are required functions that must be carried out at public expense, and for which no fees may be charged to parents:

(1) Implementing the child find requirements in §§303.301 through 303.303.

(2) Evaluation and assessment, in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b).

(3) Service coordination services, as defined in §§303.13(b)(11) and 303.33.

(4) Administrative and coordinative activities related to--

(i) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§303.342 through 303.345; and

(ii) Implementation of the procedural safeguards in subpart E of this part and the other components of the statewide system of early intervention services in subpart D of this part and this subpart.

(c) States with FAPE mandates, or that use funds under Part B of the Act to serve children under age three. If a State has in effect a State law requiring the provision of FAPE for, or uses Part B funds to serve, an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with

disabilities under the age of three), the State may not charge the parents of the infant or toddler with a disability for any services (e.g., physical or occupational therapy) under this part that are part of FAPE for that infant or toddler and the child's family, and those FAPE services must meet the requirements of both Parts B and C of the Act.

(d) Family fees. (1) Fees or costs collected from a parent or the child's family to pay for early intervention services under a State's system of payments are program income under 34 CFR 80.25. A State may add this program income to its Part C grant funds, rather than deducting the program income from the amount of the State's Part C grant. Any fees collected must be used for the purposes of the grant under Part C of the Act.

(2) Fees collected under a system of payments are considered neither State nor local funds under §303.225(b).

(e) Procedural Safeguards. (1) Each State system of payments must include written policies to inform parents that a parent who wishes to contest the imposition of a fee, or the State's determination of the parent's ability to pay, may do one of the following:

(i) Participate in mediation in accordance with §303.431.

(ii) Request a due process hearing under §303.436 or 303.441, whichever is applicable.

(iii) File a State complaint under §303.434.

(iv) Use any other procedure established by the State for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under this part, including the right to pursue, in a timely manner, the redress options described in paragraphs (e)(3)(i) through (e)(3)(iii) of this section.

(2) A State must inform parents of these procedural safeguard options by either--

(i) Providing parents with a copy of the State's system of payments policies when obtaining consent for provision of early intervention services under §303.420(a)(3); or

(ii) Including this information with the notice provided to parents under §303.421.

(Authority: 20 U.S.C. 1432(4)(B), 1439(a), 1440)

SoonerStart Early Intervention Services are costly and depend on a variety of funding sources to maintain the program. The Individuals with Disabilities Education Act (IDEA) requires that Part C programs be the payor of last resort and requires that Part C funds only be used for Early Intervention Services that an eligible child needs but is not currently entitled to under any other Federal, state, local, or private sources (subject to §§303.520 and 303.521).

Families are part of the team who determine what SoonerStart Services are needed to address the outcomes on the IFSP and needs of the child and family. Service coordinators are responsible for obtaining financial information from the family and ensuring that funding sources for each SoonerStart service is identified. After a careful review of the services needed the IFSP team will determine the appropriate funding source to pay for the service, ensuring that IDEA Part C funds are the payor of last resort in accordance with 34 CFR § 303.120(b). Certain services are

provided by SoonerStart at no cost to families. These services include: child find, screening, service coordination, evaluation and assessment, IFSP development and implementation of procedural safeguards.

The SoonerStart program is supported by the following funding sources:

1. Medicaid;
2. State general revenue; and
3. IDEA Federal funds.

The SoonerStart program does not collect co-payments or sliding scale fees for IDEA Part C services.

With parental consent, the SoonerStart program bills Medicaid for Medicaid compensable services. Consent to bill Medicaid is required before billing for any SoonerStart service in accordance with 34 CFR § 303.414. Additionally, parental consent is required any time services are altered in any way. The parent has the right to decline SoonerStart's request to access their Medicaid benefits at any time. If the parent does not provide consent for SoonerStart to bill Medicaid for Medicaid compensable services, the SoonerStart program must still make available the services on the IFSP to which the parent has provided consent (303.521(a)(2)(D)(iii)).

STATE INTERAGENCY COORDINATING COUNCIL

34 CFR §303.125 State interagency coordinating council.

Each system must include a State Interagency Coordinating Council (Council) that meets the requirements of subpart G of this part.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(15))

34 CFR §303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under Part C of the Act must establish a State Interagency Coordinating Council (Council) as defined in §303.8.

(b) The Council must be appointed by the Governor. The Governor must ensure that the membership of the Council reasonably represents the population of the State.

(c) The Governor must designate a member of the Council to serve as the chairperson of the Council or require the Council to do so. Any member of the Council who is a representative of the lead agency designated under §303.201 may not serve as the chairperson of the Council.

(Authority: 20 U.S.C. 1441(a))

34 CFR §303.601 Composition.

(a) The Council must be composed as follows:

(1)(i) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged

12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.

(ii) At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged six years or younger.

(2) At least 20 percent of the members must be public or private providers of early intervention services.

(3) At least one member must be from the State legislature.

(4) At least one member must be involved in personnel preparation.

(5) At least one member must--

(i) Be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(6) At least one member must--

(i) Be from the SEA responsible for preschool services to children with disabilities; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of the SEA.

(7) At least one member must be from the agency responsible for the State Medicaid and CHIP program.

(8) At least one member must be from a Head Start or Early Head Start agency or program in the State.

(9) At least one member must be from a State agency responsible for child care.

(10) At least one member must be from the agency responsible for the State regulation of private health insurance.

(11) At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

(12) At least one member must be a representative from the State child welfare agency responsible for foster care.

(13) At least one member must be from the State agency responsible for children's mental health.

(b) The Governor may appoint one member to represent more than one program or agency listed in paragraphs (a)(7) through (a)(13) of this section.

(c) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the State, from the Indian Health Service or the tribe or tribal council.

(d) No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Authority: 20 U.S.C. 1231d, 1441(b), 1441(f))

34 CFR §303.602 Meetings.

(a) The Council must meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.

(b) The meetings must--

(1) Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;

(2) To the extent appropriate, be open and accessible to the general public; and

(3) As needed, provide for interpreters for persons who are deaf and other necessary services for Council members and participants. The Council may use funds under this part to pay for those services.

(Authority: 20 U.S.C. 1441(c))

34 CFR §303.603 Use of funds by the Council.

(a) Subject to the approval by the Governor, the Council may use funds under this part to--

(1) Conduct hearings and forums;

(2) Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives);

(3) Pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;

(4) Hire staff; and

(5) Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act.

(b) Except as provided in paragraph (a) of this section, Council members must serve without compensation from funds available under Part C of the Act.

(Authority: 20 U.S.C. 1441(d))

34 CFR §303.604 Functions of the Council--required duties.

(a) Advising and assisting the lead agency. The Council must advise and assist the lead agency in the performance of its responsibilities in section 635(a)(10) of the Act, including--

(1) Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;

(2) Assignment of financial responsibility to the appropriate agency;

(3) Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find under §§303.115 and 303.302, monitoring under §303.120 and §§303.700 through 303.708, financial responsibility and provision of early intervention services under §§303.202 and 303.511, and transition under §303.209; and

(4) Preparation of applications under this part and amendments to those applications.

(b) Advising and assisting on transition. The Council must advise and assist the SEA and the lead agency regarding the transition of toddlers with disabilities to preschool and other appropriate services.

(c) Annual report to the Governor and to the Secretary. (1) The Council must--

(i) Prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention service programs for infants and toddlers with

disabilities and their families under Part C of the Act operated within the State; and

- (ii) Submit the report to the Secretary by a date that the Secretary establishes.*
- (2) Each annual report must contain the information required by the Secretary for the year for which the report is made.*

(Authority: 20 U.S.C. 1441(e)(1))

34 CFR §303.605 Authorized activities by the Council.

The Council may carry out the following activities:

- (a) Advise and assist the lead agency and the SEA regarding the provision of appropriate services for children with disabilities from birth through age five.*
- (b) Advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.*
- (c) Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, as described in section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other State interagency early learning initiatives, as appropriate.*

(Authority: 20 U.S.C. 1435(a)(10), 1441(e)(2))

Oklahoma Early Intervention Act, Oklahoma State Statute, Section 285.

(B) In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention that shall advise and assist the lead agency in fulfillment of its responsibilities.

PERSONNEL DEVELOPMENT

34 CFR §303.118 Comprehensive system of personnel development (CSPD).

Each system must include a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. A comprehensive system of personnel development--

(a) Must include--

- (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;*
- (2) Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under this part; and*
- (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program.*

(b) May include--

- (1) Training personnel to work in rural and inner-city areas;*
- (2) Training personnel in the emotional and social development of young children; and*
- (3) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and*
- (4) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable.*

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(8))

Personnel Development (PD) is a long range plan with interim objectives designed to provide pre-service and in-service interdisciplinary education for all personnel associated with the SoonerStart Early Intervention Program. The plan is designed to capitalize on and expand existing State systems that presently contribute to education and training, and develop new systems where necessary. PD encompasses public and private agencies and organizations, institutions of higher education, parents, and others, across all disciplines that provide services to infants and toddlers (birth – 36 months) with disabilities and their families.

All SoonerStart staff and contract providers must complete the SoonerStart web-based orientation within the first three months of employment. All SoonerStart staff must also complete the SoonerStart core trainings including: IFSP development, procedural safeguards, assistive technology, safety, ethics, and evidence-based practices within the first two years of employment.

PERSONNEL STANDARDS

34 CFR §303.119 Personnel standards.

(a) General. Each system must include policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained.

(b) Qualification standards. The policies and procedures required in paragraph (a) of this section must provide for the establishment and maintenance of qualification standards that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services.

(c) Use of paraprofessionals and assistants. Nothing in Part C of the Act may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities.

(d) Policy to address shortage of personnel. A State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in paragraphs (a) and (b) of this section.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(9), 1435(b))

Qualifications will be consistent with any state-approved or state-recognized certification, licensing, registration, or other comparable requirement that apply to the profession or discipline in which a person is providing early intervention services, except that nothing in this part shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities.

“Professional or discipline” means a specific occupational category that:

- Provides early intervention services to infants and toddlers eligible under this part and their families;
- Has been established or designated by the state; and
- Has a required scope of responsibility and degree of supervision.

Standards will be based on the highest requirement in the state applicable to a specific profession or discipline.

The “highest requirement in the state applicable to a specific profession or discipline” means the highest entry-level academic degree needed for any state approved or recognized certification, licensing, registration, or other comparable requirement that apply to that profession or discipline.

Recruitment and Retention

The Oklahoma State Department of Education (OSDE) in conjunction with higher education continues to assure the implementation of a plan for recruitment of professionals and paraprofessionals into early intervention service delivery and programming with a strong emphasis on minority and rural populations.

PROGRAM SUPERVISION

34 CFR §303.120 Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities.

Each system must include a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following:

(a)(1) *The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act.*

(2) *The monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including--*

(i) *Monitoring agencies, institutions, organizations, and EIS providers used by the State to carry out Part C of the Act;*

(ii) *Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these regulations;*

(iii) *Providing technical assistance, if necessary, to those agencies, institutions, organizations, and EIS providers;*

(iv) *Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and*

(v) *Conducting the activities in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, consistent with §§303.700 through 303.707, and any other activities required by the State under those sections.*

(b) *The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of this part.*

(c) *The assignment of financial responsibility in accordance with subpart F of this part.*

(d) *The development of procedures in accordance with subpart F of this part to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.*

(e) *The resolution of intra- and interagency disputes in accordance with subpart F of this part.*

(f) *The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with §303.511, that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of this part.*

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1416, 1435(a)(10), 1442)

Oklahoma Early Intervention Act §70 13 124.

General administration, supervision and monitoring of programs and activities receiving federal and state funds Continuation of certain

existing services Coordination of financial resources - Restricted use of monies.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

B. In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.

C. The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.

D. Pursuant to the requirements of Part H of the Individuals with Disabilities Education Act (IDEA), all financial resources from federal, state, local and private sources shall be coordinated to fund early intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected

agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;
2. Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;
3. Feasibility of utilization of federal Title V funds;
4. Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA);
5. Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;
6. Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and
7. Utilization of funds received under Part H of the Individuals with Disabilities Education Act (IDEA).

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state may execute an agreement with a city/county health department or county health department to share appropriate facilities.

Added by Laws 1989, c. 102, § 4, operative July 1, 1989. Amended by Laws 1990, c. 51, § 137, emerg. eff. April 9, 1990; Laws 1990, c. 263, § 75, operative July 1, 1990; Laws 1991, c. 317, § 3, emerg. eff. June 12, 1991; Laws 1992, c. 373, § 18, eff. July 1, 1992; Laws 1993, c. 116, § 14, eff. July 1, 1993; Laws 1995, c. 137, § 4, eff. July 1, 1995.

NOTE: Laws 1991, c. 280, § 68 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

In accordance with the IDEA Part C, the OSDE must employ general supervision activities that include monitoring of local SoonerStart Early Intervention sites with a particular emphasis on improving functional outcomes for all children with disabilities while ensuring that the site meet the requirements of the IDEA Part C. To do this, the OSDE utilizes several types of monitoring which may include, but are not limited to, (1) focused monitoring (FM) compliance reviews of priority areas selected by a FM Stakeholder Group, (2) comprehensive compliance reviews of all areas under the IDEA Part C, and (3) concern-specific compliance reviews of any area(s) under the IDEA Part C.

General supervision of SoonerStart includes quantitative and qualitative indicators according to the targets identified in the Oklahoma State Performance Plan (SPP). These indicators measure compliance and performance of timely services, natural environment, family involvement, early childhood outcomes, child find, transition, mediation, due process, formal complaints, timely data submissions and the 45-day timeline for the initial IFSP meeting.

34 §303.121 Policy for contracting or otherwise arranging for services.

Each system must include a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of the Act, including the contents of the application, and the conditions of the contract or other arrangements. The policy must--

(a) Include a requirement that all early intervention services must meet State standards and be consistent with the provisions of this part; and

(b) Be consistent with the Education Department General Administrative Regulations in 34 CFR part 80.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(11))

34 CFR §303.122 Reimbursement procedures.

Each system must include procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with subpart F of this part.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1435(a)(12), 1440(a))

Subpart H—Federal and State Monitoring and Enforcement;; Reporting; and Allocation of Funds

Federal and State Monitoring and Enforcement

34 CFR §303.700 State monitoring and enforcement.

(a) The lead agency must--

(1) Monitor the implementation of this part;

(2) *Make determinations annually about the performance of each EIS program using the categories identified in §303.703(b);*

(3) *Enforce this part consistent with §303.704, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in §303.704(a)(1) (technical assistance) and §303.704(a)(2) (imposing conditions on the lead agency's funding of an EIS program or, if the lead agency does not provide Part C funds to the EIS program, an EIS provider), §303.704(b)(2)(i) (corrective action or improvement plan) and §303.704(b)(2)(iv) (withholding of funds, in whole or in part by the lead agency), and §303.704(c)(2) (withholding of funds, in whole or in part by the lead agency); and*

(4) *Report annually on the performance of the State and of each EIS program under this part as provided in §303.702.*

(b) *The primary focus of the State's monitoring activities must be on--*

(1) *Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and*

(2) *Ensuring that EIS programs meet the program requirements under Part C of the Act, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.*

(c) *As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.*

(d) *The lead agency must monitor each EIS program located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:*

(1) *Early intervention services in natural environments.*

(2) *State exercise of general supervision, including child find, effective monitoring, the use of resolution sessions (if the State adopts Part B due process hearing procedures under §303.430(d)(2)), mediation, and a system of transition services as defined in section 637(a)(9) of the Act.*

(e) *In exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by EIS programs and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance.*

(Approved by Office of Management and Budget under control number 1820-0578)

(Authority: 20 U.S.C. 1416(a), 1442)

State Application and Assurances

General

34 CFR §303.200 State application and assurances.

Each application must contain--

(a) The specific State application requirements (including certifications, descriptions, methods, and policies and procedures) required in §§303.201 through 303.212; and

(b) The assurances required in §§303.221 through 303.227.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437)

Application Requirements

34 CFR § 303.201 Designation of lead agency.

Each application must include the name of the State lead agency, as designated under §303.120, that will be responsible for the administration of funds provided under this part.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(1))

Oklahoma Early Intervention Act §70 13 124.

General administration, supervision and monitoring of programs and activities receiving federal and state funds Continuation of certain existing services Coordination of financial resources - Restricted use of monies.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

34 CFR §303.202 Certification regarding financial responsibility.

Each application must include a certification to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under §303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services both meet the requirements in subpart F of this part (§§303.500 through 303.521) and are current as of the date of submission of the certification.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1437(a)(2))

Oklahoma Early Intervention Act §70 13 124.

General administration, supervision and monitoring of programs and activities receiving federal and state funds Continuation of certain existing services Coordination of financial resources - Restricted use of monies.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

34 CFR §303.203 Statewide system and description of services.

Each application must include --

(a) A description of services to be provided under this part to infants and toddlers with disabilities and their families through the State's system;

(b) The State's policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under subpart F of this part and including--

(1) Policies or procedures adopted by the State as its system of payments that meet the requirements in §§303.510, 303.520 and 303.521 (regarding the use of public insurance or benefits, private insurance, or family costs or fees); and

(2) Methods used by the State to implement the requirements in §303.511(b)(2) and (b)(3); and

(c) The State's rigorous definition of developmental delay as required under §§303.10 and 303.111.

(Approved by Office of Management and Budget under control number 1820-0550)

(Authority: 20 U.S.C. 1432(3), 1432(4)(B), 1432(4)(C), 1435(a)(1), 1435(a)(10)(B), 1437(a)(3), 1440)

Oklahoma Intervention Act, Section 287. Contract for Services

A contract shall be entered into between the State Department of Education and the Oklahoma State Department of Health specifying the provision or arrangement of early intervention services by the Oklahoma State Department of Health.

Such contract shall include, but not be limited to:

1.A delineation of individual and shared responsibilities for planning, administration and funding multi-disciplinary evaluations, development of an individual family service plan, service delivery, procedural safeguards and liability of both agencies;

2.Specification of the numbers and types of personnel to be provided under the contract;

3. Provisions to be made by the Oklahoma State Department of Health for provision of services not available at a local level and authorization to subcontract with other public or private service providers; and

4. Specification of all management and indirect costs associated with the Oklahoma State Department of Health's provision of early intervention services that are authorized for payment under the contract. Allowable management costs shall be limited to itemized early intervention specific travel, dedicated or shared personnel and maintenance and operations costs. Indirect costs shall not exceed those authorized by the indirect cost formula approved by the State Department of Education for the contract period. All other administrative, management or infrastructure cost recover methodologies shall be specifically disallowed for payment under the contract. (70-13-125)

34 CFR §303.204 Application's definition of at-risk infants and toddlers and description of services.

If the State provides services under this part to at-risk infants and toddlers through the statewide system, the application must include--

(a) The State's definition of at-risk infants and toddlers with disabilities who are eligible in the State for services under Part C of the Act (consistent with §§303.5 and 303.21(b)); and

(b) A description of the early intervention services provided under this part to at-risk infants and toddlers with disabilities who meet the State's definition described in paragraph (a) of this section.

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(Authority: 20 U.S.C. 1437(a)(4))

34 CFR §303.205 Description of use of funds.

(a) General. Each State application must include a description of the uses for funds under this part for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the Council and include the information required in paragraphs (b) through (e) of this section.

(b) State administration funds including administrative positions. For lead agencies other than State educational agencies (SEAs), each application must include the total--

(1) Amount of funds retained by the lead agency for administration purposes, including the amount in paragraph (b)(2) of this section; and

(2) Number of full-time equivalent administrative positions to be used to implement Part C of the Act, and the total amount of salaries (including benefits) for those positions.

(c) Maintenance and implementation activities. Each application must include a description of the nature and scope of each major activity to be carried out under this part, consistent with §303.501, and the approximate amount of funds to be spent for each activity.

(d) Direct services. Each application must include a description of any direct services that the State expects to provide to infants and toddlers with disabilities and their families with funds under this part, consistent with §303.501, and the approximate amount of funds under this part to be used for the provision of each direct service.

(e) Activities by other public agencies. If other public agencies are to receive funds under this part, the application must include--

(1) The name of each agency expected to receive funds;

(2) The approximate amount of funds each agency will receive; and

(3) A summary of the purposes for which the funds will be used.

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(Authority: 20 U.S.C. 1435(a)(10)(B), 1435(a)(10)(F), 1437(a)(3), 1437(a)(5))

34 CFR §303.206 Referral policies for specific children.

Each application must include the State's policies and procedures that require the referral for early intervention services under this part of specific children under the age of three, as described in §303.303(b).

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(Authority: 20 U.S.C. 1412(a)(3)(A), 1431, 1434(1), 1435(a)(2), 1435(a)(5), 1435(c)(2)(G), 1437(a)(6), 1437(a)(10), 1441)

34 CFR §303.207 Availability of resources.

Each application must include a description of the procedure used by the State to ensure that resources are made available under this part for all geographic areas within the State.

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(Authority: 20 U.S.C. 1437(a)(7))

The SoonerStart Early Intervention Services are made available to every eligible infant and toddler residing within Oklahoma's borders, including any Native American reservation or lands.

Oklahoma Intervention Act §70-13-124.

General administration, supervision and monitoring of programs and activities receiving federal and state funds - Continuation of certain existing services - Coordination of financial resources - Restricted use of monies.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its

implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

B. In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.

C. The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.

D. Pursuant to the requirements of Part H of the Individuals with Disabilities Education Act (IDEA), all financial resources from federal, state, local and private sources shall be coordinated to fund early intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;

2. *Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;*
3. *Feasibility of utilization of federal Title V funds;*
4. *Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA);*
5. *Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;*
6. *Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and*
7. *Utilization of funds received under Part H of the Individuals with Disabilities Education Act (IDEA).*

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state may execute an agreement with a city/county health department or county health department to share appropriate facilities.

Added by Laws 1989, c. 102, § 4, operative July 1, 1989. Amended by Laws 1990, c. 51, § 137, emerg. eff. April 9, 1990; Laws 1990, c. 263, § 75, operative July 1, 1990; Laws 1991, c. 317, § 3, emerg. eff. June 12, 1991; Laws 1992, c. 373, § 18, eff. July 1, 1992; Laws 1993, c. 116, § 14, eff. July 1, 1993; Laws 1995, c. 137, § 4, eff. July 1, 1995.

NOTE: Laws 1991, c. 280, § 68 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

34 CFR §303.208 Public participation policies and procedures.

(a) Application. At least 60 days prior to being submitted to the Department, each application for funds under this part (including any policies, procedures, descriptions, methods, certifications, assurances and other information required

in the application) must be published in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period.

(b) State Policies and Procedures. Each application must include a description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations, the lead agency--

(1) Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure);

(2) Provides notice of the hearings held in accordance with paragraph (b)(1) of this section at least 30 days before the hearings are conducted to enable public participation; and

(3) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations.

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(Authority: 20 U.S.C. 1231d, 1221e-3, 1437(a)(8))

The SoonerStart Early Intervention program will submit the annual IDEA Part C grant applications for public comment. An announcement will be published in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period.

The SoonerStart Early Intervention program will use public comment and public hearing as mechanisms to gain input into the development of any new policy. An announcement will be published in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period. Public hearings will be held to give additional opportunities for public comment. The hearings will be open to all but must be targeted to individuals with disabilities, parents of infants and toddlers with disabilities, SoonerStart service providers, and the members of the Interagency Coordinating Council (ICC).