

**Executive Summary**  
**EarlySteps Policy Revisions**

**April, 2014**

**Overview**

In September, 2011 the US Department of Education issued final IDEA-Part C regulations regarding the implementation of the Early Intervention System in each State. As a result, EarlySteps has updated its policies to meet new requirements. The procedure to update policies requires broad stakeholder input including publishing notice of the intention to make changes as well as public hearings for the purpose of obtaining public comment. Three public hearings were held the week of February 27, 2012 in Baton Rouge, Alexandria and in the New Orleans area. The policies were submitted to the Office for Special Education Programs (OSEP) for review in April, 2012 and Louisiana has received notice of approval for some of those policies.

**Summary of Changes:**

1. Definitions are updated and some are relocated from other sections to Section I A, the Definition Section
2. Regulation citations are updated with the September, 2011 references
3. Sections of the policy are reorganized to match with re-organization of information in the September regulations
4. A change to the developmental delay eligibility criteria: Now requires 1.5 standard deviations below the mean in two developmental areas. Children can no longer qualify with delays in “sub-areas” of development.
5. A change to the Freedom of Choice process for selecting service coordinators. The change will allow families to select the agency rather than the individual FSC.
6. Re-organization of the child find and evaluation sections to: pre-referral, referral and post referral activities.
7. Updating the transition activities and timelines.
8. Requirements for information to families regarding the system of payments including: use of public benefits or insurance (Medicaid) and private insurance
9. Updating Procedural Safeguards and Parent Rights.
10. Updating the Interagency Agreement between the Department of Health and Hospitals and the Louisiana Department of Education.

**Organization of Policy**

**I. General Application Requirements:** Definitions, Lead Agency, SICCC, Public Participation, Equitable Distribution of Resources, Transition, Statewide System, Traditionally Underserved Groups, Annual Performance Report, Data Collection and Reporting, General Education Provisions Act requirements

**II. Requirements Related to the Statewide System:** Eligibility Criteria, Central Directory, Timetable for serving all children, Public Awareness, Child Find, Evaluation and Assessment, IFSP’s, Comprehensive System of Personnel Development, Personnel Standards, Procedural Safeguards, Supervision and Monitoring of Programs, Policies Related to Financial Matters, Interagency Agreements, Arranging for Services, Natural Environments, Interagency Agreements.

**The following policies are final:**

Developmental Delay (34CFR 303.10):

Louisiana's definition of Developmental Delay is included in The Requirements Related to Components of a Statewide System, Section I. The delay must be identified in two or more of the following areas:

- a) cognitive development;
- b) communication development;
- c) adaptive development;
- d) physical development, including vision and hearing;
- e) social or emotional development;

The child, as measured by appropriate diagnostic measures and procedures including the use of informed clinical opinion, is below the expected developmental norms for a child of similar age

**B. Developmental Delay (303.111)**

The following rigorous definition of developmental delay provides the mechanism by which the system points of entry (SPOE's) appropriately identify infants and toddlers with disabilities that are in need of services under this part:

Children under the age of three who have a developmental delay of at least 1.5 SD (standard deviation) below the mean on the Battelle Developmental Inventory II in two of the following developmental domains are eligible for EarlySteps:

- a. cognitive development
- b. physical development
- c. communication development
- d. social or emotional development
- e. adaptive skills development (also known as self-help or daily living skills)

**Use of Informed Clinical Opinion to Determine Eligibility and to conduct evaluation and assessment of the child**

If a child does not qualify under the developmental delay criteria using the Battelle Developmental Inventory, 2<sup>nd</sup> edition (BDI-2) or established medical diagnosis category, the child may qualify by use of informed clinical opinion of developmental delay in any area of development (see list above) or if one of the following conditions apply:

- a. abnormal sensory-motor responses, including:
  - o Abnormal tone
  - o Limitations in joint range of motion
  - o Abnormal reflexes or postural reactions
  - o Oral-motor skills dysfunction, including feeding difficulties

To use informed clinical opinion for an abnormal sensory-motor response, assessment/evaluation providers must document that the condition is due to central nervous

system or brain dysfunction and not due to a temporary medical condition, such as broken bone, septic arthritis, etc.

b. affective or social disorders, including:

- persistent failure to initiate or respond to most social interactions
- persistent fearfulness that does not respond to comforting by caregivers
- self-injurious or extremely aggressive behaviors
- extreme withdrawal
- unusual and persistent patterns of chronic sleep disturbances
- significant regressions in functioning
- inability to communicate emotional needs

To use informed clinical opinion for an affective or social disorder/condition, assessment/evaluation providers must document that the condition is atypical for a child this age, interferes with normal functioning and makes day-to-day care of the child difficult.

**To establish eligibility by informed clinical opinion, the following procedures must be adhered to:**

Initial Eligibility Determination:

- the child must be assessed/evaluated by two (2) or more qualified professionals:
  - The initial assessment/evaluation must include the Battelle Developmental Inventory II
  - The second assessment/evaluation must include an assessment specific to the child's area of concern
- Assessment/evaluation providers must document that the behavior/condition is likely to worsen and interferes with normal development.
- The behavior/condition must be observed by the assessment/evaluation providers during the course of administering their evaluations/assessments,
- The behavior must be substantiated by parent, caregiver, or physician report.

Providers for all assessments/evaluations are qualified and have competence in the area(s) of concern for the child. The second opinion evaluation/assessment must be performed by a professional with expertise in the developmental domain of concern that was identified in the initial assessment.

Re-Determination of Eligibility:

Criteria and procedures are the same as for initial eligibility. However, if the child is to continue to be eligible by informed clinical opinion, the second assessment in the area of concern may be completed by the same provider that is administering the BDI-2.

EarlySteps ensures that informed clinical opinion may be used as an independent basis to establish a child's eligibility; however, informed clinical opinion may not be used to negate the results of evaluation instruments used to establish eligibility.

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

- (a) Evaluation and assessments of the child and family in may include one individual who is qualified in more than one discipline or profession as required in Section VI; and
- (b) The IFSP Team 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

§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 and/or the language of the family member being assessed.

Coordination (303.206)

The Child Find System in Louisiana is coordinated with all other major efforts to locate and identify children. Efforts are conducted by state agencies responsible for administering the various education, health, and social service programs relevant to this part and other Indian tribes that receive payments under this part and other Indian tribes. This coordination includes:

1. Child Find authorized under Part B of the Act;
2. Maternal and Child Health program under Title V of the Social Security Act including the Maternal, Infant, and Early Childhood Home Visiting Program;
3. Medicaid's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program under Title XIX of the Social Security Act;
4. Programs with the Developmental Disabilities Assistance and Bill of Rights Act of 2000;
5. Head Start Act, including Early Head Start programs under section 645A of the Head Start Act; and,
6. Supplemental Security Income program under Title XVI of the Social Security Act.
7. 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)
8. Child care programs in Louisiana
9. Programs that provide services under the Family Violence and Prevention and Services Act
10. Early Hearing Detection and Intervention (EHDI) systems (42 USC 280g-1) administered by the Centers for Disease Control and
11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act.

## **I. SERVICES TO ALL GEOGRAPHIC AREAS (303.207)**

Early intervention services are provided through contractual arrangements with providers and agencies throughout the State. The service provider roster (Service Matrix) includes providers that cover all geographic areas of the state, both urban and rural. The matrix is updated and reviewed by central office and regional staff for availability of providers by location and by discipline. Recruitment activities are conducted as needed.

## **COORDINATION WITH HEAD START, EARLY HEAD START, EARLY EDUCATION, AND CHILD CARE PROGRAMS (303.210)**

(a) occurs through the following:

- (1) interagency agreements at the state, regional and local level for coordination of activities
- (2) participation of representatives on the SICC and regional ICC's and other joint planning and implementation activities
- (3) outreach to local and regional Head Start, Early Head Start contractors and child care programs
- (4) referral procedures to Part C and from Part C for identified, eligible children and to facilitate successful transition at age 3 year.
- (5) training to support inclusion of children with disabilities in all early education settings including participation on the Special Quest state leadership team and other similar activities.

(b) Participation of the Lead Agency on Bright Start, Louisiana's Early Childhood Advisory Council.

- (1) The Part C Coordinator is an appointed member to Bright Start
- (2) Other central and regional office Part C staff and contractors participate in Bright Start workgroups addressing all aspects of the early childhood education system in Louisiana.

## **F. TRANSITION TO PRESCHOOL AND OTHER PROGRAMS (303.209)**

1. DHH ensures seamless transition from Part C services to Part B services for infants and toddlers with disabilities under the age of three and their families through an interagency agreement with the Louisiana Department of Education which outlines the procedures each agency will follow. The agreement addresses the requirements of Part C.

2. Louisiana has developed the following policies and procedures to ensure a smooth and effective transition from Part C services to Part B services for infants and toddlers with disabilities under the age of three and their families to preschool or other appropriate services (for toddlers with disabilities) or exiting the program for infants and toddlers with disabilities at or before age three:

- (a) For children potentially eligible for Part B services (that is, Part C-eligible children) and with the approval of the family of the child, the family service coordinator will convene an IFSP team meeting/transition conference which includes the transition plan including the steps and services to exit the system. The meeting will include the FSC, the family, the Local Education Agency (LEA), other IFSP team members, and lead agency representatives DHH-OCDD. The meeting will be held not fewer than 90 days- and at the discretion of all of the parties, not more than nine (9) months before the third birthday and/or before the child is eligible for the preschool services
- (b) The discussions in the transition conference will include
- any such services that the child may receive under Part B of the act,
  - discussions with and training for parents regarding future placements
  - In the case of a child who may not be eligible for Part B services, with the approval of the family, the FSC makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services including, but not limited to Head Start, Early Head Start and Early Education and child care programs.
  - to discuss the appropriate services that the child may receive.
- (c) Other matters related to the child's transition are included in the transition conference.
- procedures to prepare the child for changes in service delivery including steps to help the child adjust to, and function in, a new setting
  - confirmation that child find information about the child has been transmitted to the LEA or other relevant agency including the appropriate OCDD regional entry office
  - confirmation that transmission of additional information needed by the LEA and/or OCDD to ensure continuity of services from EarlySteps to Part B and /or OCDD, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed.
- (d) Transition steps and services will be documented on the IFSP. Any IFSP team meeting falling within the above timeframe may be considered as the transition conference as long as the required notifications are provided prior to the meeting and that the meeting meets the above participant requirements.
- (e) At the transition conference, the transition plan will address:
- 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.
  - that the family of the child is included in the development of the transition plan.
  - the steps for the toddler and his or her family to exit from EarlySteps
  - any transition services and/or other activities that the IFSP team identifies as needed by the toddler and his or her family to support the transition of the child.
- (f) If the parent agrees to eligibility determination for special education and related services under Part B of IDEA, the Part C family service coordinator shall obtain

release(s) of information to the public school system at the transition conference to ensure the timely receipt by the school district. Any information from EarlySteps that will assist the district in determining the child's eligibility and programmatic needs should be considered for release. That information should include at a minimum, the following:

- A. child and parent name, address, and phone number, and the student's birth date;
- B. current copy of the entire IFSP which includes present levels of functioning, early intervention services, and transition plan;
- C. The most recent eligibility evaluation and any assessments that have occurred in the previous year, and if not contained in the child's record, where the information can be obtained; and
- D. any written reports from service providers within the last year.

Local districts are required to provide special education and related services to eligible children as identified in the IEP as of the child's third birthday. EarlySteps staff, providers and the family support coordinator will conduct all transition activities in a manner which supports the development and implementation of the IEP.

### 3. Transition Notification Procedures

DHH, as lead agency, assures that, no fewer than 90 days before the third birthday of the a toddler with a disability who may be eligible for IDEA, Part B services, the SEA and the LEA for the area in which the toddler resides are notified that the toddler, on his or her third birthday will reach the age of eligibility for services under IDEA, Part B. Notice to the LEA and the SEA will occur as soon as possible for transition for this notice as well as for late referrals as outlined below. Monthly, a data file is submitted to the SEA which contains the following information: The data submitted to DOE includes the child's name, date of birth, parent contact information including names, addresses and telephone numbers.

For "late" referrals to EarlySteps, the following also apply:

--For a child referred to EarlySteps 45-90 days prior to the third birthday, the child will continue with the EarlySteps eligibility process jointly with the LEA (as per consent from the family).

The intake coordinator and LEA will also assist the family with OCDD/HSA/D referrals. If the child is eligible for Part C and therefore considered potentially eligible for Part B, the initial IFSP meeting will meet all requirements of a transition conference.

--For a child referred fewer than 45 days from turning age three, EarlySteps will, with parental consent, refer to the SEA and the LEA for the area in which the toddler resides. The intake coordinator will assist the family with the referral. The intake coordinator and LEA will also assist the family with a referral to OCDD/HSA/D. If no parental written consent is obtained the

Intake Coordinator will provide to the family the LEA's contact information such as contact name and phone number to the family.

EarlySteps does not require the SPOE to conduct an evaluation, assessment, or an initial IFSP meeting for children referred fewer than 45 days before that child's third birthday.

## INTERAGENCY AGREEMENT

between

The DEPARTMENT OF HEALTH AND HOSPITALS,  
OFFICE FOR CITIZEN'S WITH DEVELOPMENTAL DISABILITIES

and

THE DEPARTMENT OF EDUCATION

### **Purpose of Agreement:**

The purpose of this interagency agreement is to establish and confirm the agreed upon obligations, responsibilities and timelines essential to ensure a coordinated system of early intervention services as required by Part C of the Individuals with Disabilities Education Act. This interagency agreement has been developed by recognized and authorized department representatives and represents the mutual assignment of responsibility and agreement for the state of Louisiana in order to comply with the Federal and State regulations for the administration and operation of the Louisiana Part C system.

### **Goals and Objectives:**

The shared outcomes of this interagency agreement are to:

- a. Ensure that potentially eligible children, ages birth through two, are identified in a timely manner for the state's Part C system and that 3-year olds are identified for the state's Part B system;
- b. Ensure that the Individualized Family Service Plans (IFSPs) for eligible children and their families are developed in a timely manner and that children transitioning to Part B have an IEP in place by their 3<sup>rd</sup> birthday;
- c. Ensure that all stakeholders have timely, accurate and meaningful information regarding the Part C system in general;
- d. Ensure that there is continued communication between the Louisiana Department of Education (DOE) and the Louisiana Department of Health and

- Hospitals (DHH-OCDD) (also referred to as the Lead Agency for Part C) and that all communications reflect this interagency agreement;
- e. Ensure that all appropriate and available resources are identified and utilized in the planning and implementation of the Part C system in Louisiana and delivery of Part C services; and,
  - f. Ensure that there is a mechanism for the swift identification and resolution of problems and issues between the two agencies.

## **Required Components:**

### I. Financial Responsibility

DHH/OCDD is responsible for identifying and coordinating all available resources for Part C including federal, state, public and private sources. Part C funds may not be used where other resources pay or otherwise provide for services (non-substituting or supplanting). Existing resources under Titles V and XIX may not reduce their coverage of services or benefits because of Part C. The lead agency must ensure that the total amount of state and local funds budgeted for expenditures in Part C are at least equal to the amount previously expended in the most recent preceding year (maintenance of effort).

#### Agreement:

DHH/OCDD will support the continued participation of the Local Education Agencies (LEAs) through the general systems financing design.

DHH/OCDD and DOE will work jointly to meet federal requirements related to state, local and other funds directed towards the current Part C system in order to ensure the maintenance of effort requirements.

Local Education Agencies and their personnel may, at their discretion, enroll with the DHH/OCDD as providers of early intervention services as defined by DHH/OCDD. LEAs and their personnel electing to enroll with DHH/OCDD must adhere to Part C regulations. LEAs who choose to participate in the Part C system must enroll staff with the Part C Central Finance Office and Louisiana Medicaid, if appropriate.

Local Education Agencies may, at their discretion, provide Special Instruction through the existing financial supports available to schools (Minimum Foundation Program funds).

## II. Procedures for Resolving Disputes

When a formal dispute arises between DHH/OCDD and the DOE regarding the terms of this Agreement, the party seeking clarification shall utilize the following procedures for resolution:

### A. Resolution of a dispute:

1. The issue will be referred to the respective division administrators or their designees for resolution.
2. If the issue is still unresolved, it will be referred to the highest level within each agency for resolution.
3. The resolution process shall occur within 60 days. If acted upon in good faith, with just cause and through mutual agreement, an extension may be granted not to exceed 30 calendar days.

During the pendency of any dispute in which early intervention services are in question, services to a child will not be delayed or denied and DHH/OCDD will pay for or provide the early intervention services. However, if DOE is found to be responsible for the payment of early intervention services, DOE will reimburse DHH/OCDD for the services provided during the time period of the dispute.

### B.. An Unresolved Dispute

If the highest level within each agency does not resolve the dispute, the issue shall be referred to the Governor or his or her designee.

After following this procedure, both agencies may utilize any other legal means available to resolve the dispute. This dispute resolution process shall not infringe upon the parties' state and federal statutory obligations. Nor shall either party be required by this agreement to act in any manner prohibited by federal or state law or

regulation.

### III. Additional Components to Ensure Effective Cooperation and Coordination

#### A. Child Find/Public Awareness:

DHH/OCDD has the responsibility to locate, identify, and evaluate all Part C eligible children. The DOE has the responsibility to locate and identify all children with disabilities, birth through 21, under the provisions of Part B of the Individuals with Disabilities Education Act. The DOE ensures evaluations for children with disabilities ages three through 21. DHH/OCDD will inform parents of toddlers with disabilities of the availability of services under section 619 of IDEA not fewer than 90 days prior to the toddler's third birthday.

#### LEA Responsibilities:

The DOE will direct LEAs to refer all children suspected to be eligible for Part C to the appropriate system point of entry as defined by the DHH/OCDD.

The DOE will encourage LEAs, as part of their child find efforts, to disseminate Part C brochures and other public awareness materials to their constituents.

DHH/OCDD and DOE will jointly share public awareness materials for their respective programs.

#### B. Comprehensive System of Personnel Development (CSPD)

A comprehensive system of personnel development (CSPD) is required by Part C to ensure that all Part C personnel and families are appropriately trained in their responsibilities for the Part C system. CSPD includes professional development for

individuals currently recognized as Part C providers, and technical assistance to ensure continuous compliance with Federal and State regulations, policies and procedures.

The DHH/OCDD will provide specific and targeted training to all current and potential Part C providers as required by Part C. This training will be open to early intervention teachers, therapists, diagnosticians, and other qualified staff employed by local schools as well as regional early childhood coordinators.

DHH/OCDD & DOE will collaborate in the development and implementation of training that would be beneficial for all early intervention service providers, including providers in early childhood programs in the LEA. Both agencies will designate a staff person who will collaborate on training initiatives. Efforts will be made to avoid any duplication of training.

DOE will continue to credential early interventionists as recognized in Bulletin 746, ***Louisiana Standards for State Certification of School Personnel***, of the Department of Education through the process established by the department.

#### **IV. Procedures for Sharing Data**

A. The DHH/OCDD is responsible for ensuring the timely and comprehensive collection of information related to individual child services, personnel and other information as required by the US DOE/OSEP.

The DHH/OCDD will collect information at the central office level to share with the DOE regarding the referral activities, including the number and location of referrals and referral source. Local Education Agencies and their personnel, who elect to provide Part C services, must provide required data as negotiated with DHH.

The DHH/OCDD and DOE will identify data reports to be provided to the US DOE/OSEP on a regular basis that will assist in financial forecasting and program planning for preschool services and meeting Federal reporting requirements.

B. Shared Evaluations

OCDD and LEA staff will share evaluation reports for evaluation activities conducted jointly as part of pilot or joint evaluation procedures conducted for eligibility determination.

### C. Transition at Age 3

DHH/OCDD and the DOE agree that to facilitate a smooth transition for children at age three, any child who is eligible for Part C services will be considered potentially eligible for Part B preschool services. DHH/OCDD will ensure that:

- the DOE and the appropriate LEA are notified of children transitioning from the system nine months prior to the child's third birthday, or earlier if the school district provides free, appropriate public education (FAPE) prior to age three. The notification is provided through a data exchange from DHH/OCDD to the DOE. The DOE will disaggregate the data and send to the appropriate LEA. The data submitted to DOE includes the child's name, date of birth, parent contact information including names, addresses and telephone numbers.
- If a child is referred to DHH/OCDD forty-six (46) to ninety (90) calendar days prior to the child's third birthday, DHH/OCDD will notify the DOE and LEA of the child find information and date of the transition meeting as soon as possible to allow the LEA to begin the evaluation process. Notification occurs through a data exchange from DHH/OCDD to the DOE and through a notice letter sent to the appropriate LEA.
- If a child is referred to DHH/OCDD forty-five (45) or fewer days prior to the child's third birthday, DHH/OCDD, with parent consent, will refer the child to the DOE and the LEA as soon as possible. Notification occurs through a data exchange from DHH/OCDD to the DOE and through a notice letter sent to the appropriate LEA. If the parent does not give consent, DHH/OCDD will provide the parent with the contact information for the appropriate LEA. DHH/OCDD is not required to conduct an evaluation, assessment, or an initial IFSP meeting for a child referred 45 or fewer days prior to the third birthday.

DHH/OCDD will ensure that no earlier than nine (9) months prior to the child's third birthday (at the discretion of all parties) and at least ninety (90) days prior to the child's third birthday, the Part C family service coordinator will convene an IFSP meeting/transition conference to discuss the transition process with the parents and other team members in order to develop a transition plan. LEA personnel will be invited to participate in this IFSP meeting. The DOE will inform the LEA personnel about their

responsibility in their participation in the transition process. The transition plan in the IFSP will include any appropriate steps for the toddler to exit the Part C program and any transition services that the IFSP team determines are necessary to support the transition of the toddler and the family, including:

The steps for the transition plan must include:

- a. discussions with, and training of, parents regarding future placements and other matters related to the child's transition;
- b. procedures to prepare the child for changes in service delivery including steps to help the child adjust to, and function in, a new setting; and
- c. confirmation that child find information about the child has been transmitted to the local education agency or other relevant agency, to ensure continuity of services including the most recent evaluation and assessment information of the child and the family and most recent IFSP. This requires parental consent.
- d. review of program options for the toddler for the period from the toddler's third birthday through the remainder of the school year.

. Additionally, if the parent agrees to eligibility determination for special education and related services under Part B of IDEA, the Part C family service coordinator shall obtain release(s) of information for the LEA including the most recent evaluation, assessments, IFSP's, progress notes, etc at this meeting or prior to this meeting and for the LEA to provide the eligibility status and IEP if the child is found eligible for Part B.

DOE ensures that LEAs will provide special education and related services to eligible children as identified in the IEP as of the child's third birthday. At the request of the parent, an invitation to the initial IEP meeting must be sent to the Part C service coordinator or other representative if the child received Part C services. The IEP team must consider the IFSP, including the natural environments statement when developing the initial IEP. If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under an IEP will begin. However, services shall begin no later than the first day of the school year.

DHH/OCDD and DOE agree to inform parents of procedures required to request services during the summer months. For those children eligible for Part B services whose third birthday occurs during the summer months but have IEPs that do not provide for summer services, parents may request continuation of Part C services from DHH/OCDD until the

child is able to begin receiving Part B services pursuant to the IEP. DHH/OCDD will consider these requests on a case by case basis subject to available funds.

DHH/OCDD and DOE agree to meet as needed to discuss transition issues or any other issues identified by families or LEA personnel. Either agency may initiate these discussions.

DHH/OCDD agrees to share aggregate data relating to transition with the DOE.

This agreement shall become effective with the signatures of the Superintendent of Education and the Secretary of Health and Hospitals. This agreement may be terminated by either party by giving 30 days notice in writing.

Signatures of Agency Representatives:

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**John White, Superintendent**

**Louisiana Department of Education**

**Date**

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**Kathy Kliebert, Secretary**

**Louisiana Department of Health and Hospitals**

**Date**

LOUISIANA PART C POLICY

The following section includes all of the proposed policies for Louisiana. Some of these are still in review and may show proposed revisions in “track changes.”

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## I. General Application Requirements Sections

### A. DEFINITIONS

The State of Louisiana has adopted the definitions in 34 CFR 303.4-303.37 of the Part C regulations and selected terms:

303.4 Act means the Individuals with Disabilities Education Act, as amended.

303.6 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.

§303.5 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. It is the policy of the state of Louisiana to not include children considered to be “at risk” of having substantial developmental delays for eligibility in the Part C system under this application.

§303.7 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)

(d) The parent understands that they have the right to determine whether the child or other family members will accept or decline and early intervention service without jeopardizing other early intervention services.

303.8 Council means the State Interagency Coordinating Council (SICC) that meets the requirements of subpart G of the Part C regulations

§303.9 Day means calendar day, unless otherwise indicated.

303.403(a) Destruction: Means physical destruction of a record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable.

Developmental Delay (34CFR 303.10):

Louisiana's definition of Developmental Delay is included in The Requirements Related to Components of a Statewide System, Section I. The delay must be identified in two or more of the following areas:

- a) cognitive development;
- b) communication development;
- c) adaptive development;
- d) physical development, including vision and hearing;
- e) social or emotional development;

The child, as measured by appropriate diagnostic measures and procedures including the use of informed clinical opinion, is below the expected developmental norms for a child of similar age.

303.403 Early Intervention Record means all records regarding a child that are required to be collected, maintained, or used under IDEA Part C and its regulations.

§303.11 Early intervention service program.

means an entity designated by the lead agency for reporting under §§303.700 through 303.702 and includes agencies enrolled or otherwise contracted to provide early intervention services or meet other Part C requirements.

§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

(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

§303.13 Early intervention services means services that

**(a) General:**

(1) are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family related to enhancing the family's capacity to assist appropriately in their child's development, as defined by the IFSP Team, in any one or more of the following areas:(i)

Physical development

(ii) Cognitive development

- (iii) Communication development
  - (iv) Social or emotional development
  - (v) Adaptive development
- (2) are selected in collaboration with the parents and other IFSP team members;
- (3) are provided:
- i) under public supervision
  - ii) by qualified personnel, as defined in Sec. 303.31, including the types of personnel listed in paragraph (c) Qualified Personnel
  - iii) in conformity with an individualized family service plan
  - iv) at no cost to the family except subject to an approved system of payments where provided for by Federal or State laws and policy, including a schedule of sliding fees and,
- (4) meets the standards of the State
- (5) Include services listed below in (b) Types of Early Intervention Services
- (6) Provided in natural environments: To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities and their families participate. Natural environments means settings that are natural or normal for the child's age peers who have not disability.
- (7) Include these general roles of service providers: To the extent appropriate, service providers in each discipline of early intervention service included in paragraph (d) of this section are responsible for --
- (1) consulting with parents, service coordinators, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;
  - (2) training parents and others regarding the provision of those services; and,
  - (3) participating in the multidisciplinary team's assessment of a child and child's family and in the development of strategies and outcomes for the individualized family service plan (IFSP).
- (8) 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;
- (9) Are provided in conformity with an IFSP adopted according the procedures in section 636 of the Act and in 303.20
- (b) Types of early intervention services.** Subject to paragraph (d) below, 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) 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 and the following services are not provided:

(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) an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) has the right 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) the qualified EIS provider may routinely check 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.

(5) Medical services means services provided by a licensed physician for diagnostic or evaluation purposes only, 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 eligible children based on the assessment findings
- (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) 303.34 Service coordination services mean services

(a) General

(1) 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 required procedural safeguards.

(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 described activities

(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 required early intervention services
- (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, service coordination services, family service coordination, support coordination, or case management 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 §303.510 (Payor of last resort provisions).

(d) Employment and assignment of service coordinators—

Louisiana uses two types of service coordinators in the early intervention system: intake coordinators and family service coordinators. Intake coordinators work at the regional system point of entry office (SPOE). Intake coordinators are responsible for receiving the referral, meeting with the family, facilitating eligibility determination process including screening, evaluation and child and family assessments, and facilitating the development of the initial IFSP for eligible children and their families. Family service coordinators are in charge of ongoing service coordination procedures for the duration of the child's period of eligibility for Part C. Family service coordinators are employed by a licensed service coordination agency. Families select the family service coordination agency from the Part C central directory/service matrix; the agency selects the individual service coordinator who will work with the family during the child's eligibility for EarlySteps.

(e) Qualification of service coordinators—

Service coordinators must be persons who, have demonstrated knowledge and understanding about:

- i. infants and toddlers who are eligible under Part C
- ii. the regulations for Part C
- iii. the nature and scope of service available under the Louisiana's early intervention system
- iv. the system of payments for services; and,
- v. other pertinent information
- vi. and meet the provider qualifications established by DHH.

(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 (e.g., tolls and parking expenses) 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 include the types of qualified personnel who provide early intervention services in EarlySteps:

- (1) Audiologists.
- (2) Family therapists, Counselors.
- (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 or special instructors, 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 list above does not comprise an exhaustive list 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 Section IX which follows.

§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

§303.17 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.

§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.

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

(a) Is based on the evaluation and assessment described in Section VII;

(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 and

(d) Is developed in accordance with the IFSP procedures in Section VII which follows.

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

§303.21 Infant or toddler with a disability means

(a) a child under three years of age who needs early intervention services because the child--

(1) Is experiencing a developmental delay, as measured by state-approved diagnostic instruments and other 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 or as listed in Section I State Eligibility Criteria and Procedures which follows.

§303.22 Lead agency means the agency designated by the 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. In Louisiana, the Lead Agency is the Department of Health and Hospitals.

§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, parish, township, school district, or other political subdivision of the State, or for a combination of school districts or parishes as are recognized in the 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

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

- (a) Evaluation and assessments of the child and family in may include one individual who is qualified in more than one discipline or profession as required in Section VI; and
- (b) The IFSP Team 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

§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 and/or the language of the family member being assessed.

(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).

§303.26 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.

§303.27 Parent means--

(a) General

(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) 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.

Exception to (b) above:

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.

§303.28 Parent training and information center.

Parent training and information center means a center assisted under section 671 or 672 of IDEA.

303.403 Participating Agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements of IDEA Part C and its regulations. Participating agencies include the lead agency, any early intervention service provider. It does not include referral sources, or public agencies or private entities that act solely as funding sources for Part C services (such as Medicaid or private insurance companies).

§303.29 Personally identifiable information means personally identifiable information as defined in the Family Educational Rights and Privacy Act (FERPA) “student” in the definition of personally identifiable information means “child” as used in this part and any reference to “school” means “EIS provider” as used in Louisiana.

Personally identifiable means information that includes:

- (1) the name of the child, the child's parent or other family member;
- (2) the address of the child;
- (3) a personal identifier, such as the child's or parent's social security number; or,
- (4) a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty

Policies

(a) mean state statutes, regulations, Governor’s orders, directives by the lead agency, or other written documents that represent the state’s position concerning any matter covered under this part.

(b) state policies include—

- (1) Louisiana’s commitment to develop and implement the statewide system
- (2) eligibility criteria and procedures;

- (3) a statement that provides that, services under this part will be provided at no cost to parents, except where a system of payments is provided for under Federal or state law;
- (4) standards for personnel who provide services to eligible children
- (5) Louisiana’s position and procedures related to contracting or making other arrangements with service providers under Subpart F, Use of Funds and Payor of Last Resort; and,
- (6) other positions that Louisiana has adopted related to implementing any of the other requirements under this part.

§303.30 Public agency means the lead agency and any other agency or political subdivision of the State.

§303.31 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

Personnel Qualifications are listed in Section IX which follows.

§303.32 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.”

§303.33 Secretary means the Secretary of the US Department of Education.

§303.35 State means Except as provided in §303.732(d)(3) (regarding State allotments under this part), State means the State of Louisiana.

§303.36 State educational agency or SEA means the State Board of Elementary and Secondary Education (BESE) or the Louisiana Department of Education (LDE) or the Superintendent of Education 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. The LDE is 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

§303.37 Ward of the State.

(a) General. Subject to paragraph (b) below, 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

### **EDGAR definitions that apply to Part C**

The following terms used in this part are defined in 34 CFR 77.1 and 74.3:

- Applicant: means a party requesting a grant or subgrant under a program of the Department
- Award: means an amount of funds that the Department provides under a grant or contract
- Contract: means (except as used in the definitions for “grant” and “subgrant” in this section and except where qualified by “Federal”) a procurement contract under a grant or subgrant, and “subgrant” means a procurement subcontract under such a contract.
- Department: means the US Department of Education
- EDGAR: means the Education Department General Administrative Regulations (34 CFR Parts 74, 75, 76, 77, and 78).
- Fiscal year: means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30.
- Grant: means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government to an eligible recipient. The term includes such financial assistance when provided by contract, but does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance, which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as fellowship or other lump sum award, which the recipient is not required to account for on an actual cost basis.
- Grantee: means the government, nonprofit corporation, or other legal entity to which a grant is awarded and which is accountable to the Federal Government for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the award document. For example, a grant award document may name as the grantee an agency or a state, or one school or campus of a university. In these cases, the granting agency usually intends or actually requires that the named component assume primary or sole responsibility for administering the grant award document shall not be construed as relieving the whole legal entity from accountability to the Federal government for the use of the funds provided. (This definition is not intended to affect the eligibility provisions of grant programs in which eligibility is limited to organizations, such as state education agencies, which may be the only components of a legal entity). The term “grantee” does not include any secondary recipients such as subgrantees, contractors, etc., who may receive funds from a grantee pursuant to a grant.

- Grant period: means the period for which funds have been awarded.
- Private: as applied to an agency, organization, or institution, means that the agency is not under Federal or public supervision or control.
- Public: as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal government.
- Secretary: means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

**Additional Definitions** may be found in:

Section VII: Evaluation and Assessment

Section VII: IFSP

Section X: Procedural Safeguards

## **B. LEAD AGENCY (303.201)**

The Department of Health and Hospitals (DHH) is the lead agency responsible for ensuring the provision of early intervention services to eligible infants and toddlers with disabilities and their families consistent with and 34 CFR Part 303. The Department of Health and Hospitals has been designated by the Governor to be responsible for assigning financial responsibility among appropriate agencies.

DHH is responsible for ensuring that the minimum components of a statewide system of early intervention services for eligible infants and toddlers and their families, as required by the United States Department of Education is established and maintained in the state. Louisiana assures that a current IFSP is in effect and implemented for each eligible child and the child's family known to the Part C system.

## **C. STATE INTERAGENCY COORDINATING COUNCIL (SICC)**

### Establishment and Composition (34 CFR 303.600, 303.601)

The Governor of Louisiana appoints the State Interagency Coordinating Council (SICC). In making an appointment to the Council, the Governor ensures that membership of the Council reasonably represents the population of the State. The Governor appoints the chairperson who is not a representative of the lead agency. The composition of the Council meets the requirements for membership as specified in 34 CFR 303.601. Agency representatives appointed to the

Council have sufficient authority to engage in policy planning and implementation on behalf of their agency.

#### Meetings (34 CFR 303.602)

The SICC meets at least quarterly. When necessary, additional meetings are scheduled. All meetings comply with the Louisiana Open Meetings Law. These procedures ensure that meetings are announced sufficiently in advance to ensure attendance and that they are open and accessible to the public. Interpreters for the deaf and other necessary services for both SICC members and participants are provided as requested.

#### Use of Funds by the Council (303.603)

Subject to the approval by the Governor, the Council may use funds under this part--

- (1) to conduct hearings and forums;
- (2) to 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) to compensate a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business.
- (4) to hire staff; and,
- (5) to obtain the services of professional, technical, and clerical personnel, as may be necessary to carry out the performance of its functions.

#### **PUBLIC PARTICIPATION (303.208)**

At least 60 days prior to submission to the US Department of Education, the Louisiana DHH uses the following methods to make the Part C application available for comments to the public, including individuals with disabilities, parents of children with disabilities, EIS providers, and the members of the SICC. The application and/or any policies, procedures, descriptions, methods, certifications, assurances and other required information are available for at least a 60-day period, with an opportunity for public comment for at least 30 days during that period through:

1. Advertisement in newspapers.
2. A general news release from the DHH's Office of Public Information to the state's newspapers, radio stations, television stations, and other points of information dissemination. The news release includes notice of the state's intent to submit a Part C application, the availability of the application for review, the date of public hearings, and procedures for submitting written comments about the application.
3. Public hearings.
4. Internet Posting of the proposed plan, procedure, and/or policy.

Prior to the adoption of any new policy or procedure, including revisions, DHH holds public hearings on the new policy or procedures and/or revisions to existing policy or procedures. Notice of hearings will be provided at least 30 days before the hearings to enable public participation [according to the same procedures listed above. DHH also provides an opportunity for the general public, including individuals with disabilities, early intervention providers, the](#)

[SICC members, and families to comment for at least 30 days on the new or revised policy or procedure.](#)

#### Compensation and expenses of Council members

Except as provided in items (2) and (3) above, Council members shall serve without compensation from funds available under this part.

#### Conflict of Interest (34 CFR 303.601 (d))

No member of the Interagency Coordinating Council may cast a vote on any matter that would provide direct financial benefit to themselves or otherwise give the appearance of a conflict of interest.

#### Functions (34 CFR 303.604 )

Required duties of the SICC are to:

1. Advise and Assist the Lead Agency in:

- (a) Identification of sources of fiscal and other support for early intervention services
- (b) Assignment of financial responsibility to the appropriate agency
- (c) Promotion of methods for intra- and inter-agency collaboration, through agreements regarding child find, monitoring, financial responsibility, and provisions of early intervention services.
- (d) Preparation of applications and application amendments.

2. Advising and Assisting on Transition to the SEA and the lead agency regarding transition of toddlers with disabilities to preschool and other appropriate services.

3. Prepare Annual report to the Governor and the Secretary

- (a) on the status of early intervention service programs under Part C
- (b) submit the report to the Secretary by the established date
- (c) include information required by the Secretary for the year the report is made.

Authorized duties of the SICC are:

1. To advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to five
2. To 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, regardless of the Part C eligibility of at-risk infants and toddlers for early intervention in Louisiana.
3. Coordinate and collaborate with the Early Childhood Advisory Council (or Bright Start) and other State interagency early learning initiatives as appropriate.

#### **D. PUBLIC PARTICIPATION (303.208)**

At least 60 days prior to submission to the US Department of Education, the Louisiana DHH uses the following methods to make the Part C application available for comments to the public,

including individuals with disabilities, parents of children with disabilities, EIS providers, and the members of the SICC. The application and/or any policies, procedures, descriptions, methods, certifications, assurances and other required information are available for at least a 60-day period, with an opportunity for public comment for at least 30 days during that period through:

1. Advertisement in newspapers.
2. A general news release from the DHH's Office of Public Information to the state's newspapers, radio stations, television stations, and other points of information dissemination. The news release includes notice of the state's intent to submit a Part C application, the availability of the application for review, the date of public hearings, and procedures for submitting written comments about the application.
3. Public hearings.
4. Internet Posting of the proposed plan, [procedure, and/or policy](#).

Prior to the adoption of any new policy or procedure, including revisions, [DHH holds public hearings on the new policy or procedures and/or revisions to existing policy or procedures](#). Notice of hearings will be provided at least 30 days before the hearings to enable public participation [according to the same procedures listed above](#). [DHH also provides an opportunity for the general public, including individuals with disabilities, early intervention providers, the SICC members, and families to comment for at least 30 days on the new or revised policy or procedure](#).

## **E. EQUITABLE DISTRIBUTION OF RESOURCES**

Contractual arrangements with early intervention providers ensure that early intervention services are provided to eligible children when there is no other federal, state, private, or local source of payment. These monies expand and provide services that are otherwise unavailable. Providers of Part C early intervention services are reimbursed for the rendered services on a fee-for-service basis.

Early intervention services, specialized services and/or discretionary projects are funded through the state of Louisiana's rules for purchasing. These rules involve adequate notification to the public that services are sought and specific submission procedures.

## **F. TRANSITION TO PRESCHOOL AND OTHER PROGRAMS (303.209)**

1. DHH ensures seamless transition from Part C services to Part B services for infants and toddlers with disabilities under the age of three and their families through an interagency agreement with the Louisiana Department of Education which outlines the procedures each agency will follow. The agreement addresses the requirements of Part C.
2. Louisiana has developed the following policies and procedures to ensure a smooth and effective transition from Part C services to Part B services for infants and toddlers with disabilities under the age of three and their families to preschool or other appropriate services

(for toddlers with disabilities) or exiting the program for infants and toddlers with disabilities at or before age three:

- (a) For children potentially eligible for Part B services (that is, Part C-eligible children) and Wwith the approval of the family of the child, the family service coordinator will convene an IFSP team meeting/transition conference which includes the transition plan including the steps and services to exit the system. The meeting will include the FSC, the family, the Local Education Agency (LEA), other IFSP team members, and lead agency representatives DHH-OCDD. The meeting will be held not fewer than 90 days and at the discretion of all of the parties, not more than nine (9) months before the third birthday and/or before the child is eligible for the preschool services
- (b) The discussions in the transition conference will include
- any such services that the child may receive under Part B of the act,
  - discussions with and training for parents regarding future placements
  - In the case of a child who may not be eligible for ~~Part B such preschool~~ services, with the approval of the family, the FSC makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services including, but not limited to Head Start, Early Head Start and Early Education and child care programs.
  - to discuss the appropriate services that the child may receive.
- (c) Other matters related to the child's transition are included in the transition conference.
- procedures to prepare the child for changes in service delivery including steps to help the child adjust to, and function in, a new setting
  - confirmation that child find information about the child has been transmitted to the LEA or other relevant agency including the appropriate OCDD regional entry office
  - confirmation that transmission of additional information needed by the LEA and/or OCDD to ensure continuity of services from EarlySteps to Part B and /or OCDD, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed.
- (d) Transition steps and services will be documented on the IFSP. Any IFSP team meeting falling within the above timeframe may be considered as the transition conference as long as the required notifications are provided prior to the meeting and that the meeting meets the above participant requirements. Additional IFSP transition plan requirements are found in Section VII, IFSP, which follows
- (e) At the transition conference, the transition plan will address:
- 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.
  - that the family of the child is included in the development of the transition plan.
  - the steps for the toddler and his or her family to exit from EarlySteps

--any transition services and/or other activities that the IFSP team identifies as needed by the toddler and his or her family to support the transition of the child.

(f) If the parent agrees to eligibility determination for special education and related services under Part B of IDEA, the Part C family service coordinator shall obtain release(s) of information to the public school system at the transition conference to ensure the timely receipt by the school district. Any information from EarlySteps that will assist the district in determining the child's eligibility and programmatic needs should be considered for release. That information should include at a minimum, the following:

- A. child and parent name, address, and phone number, and the student's birth date;
- B. current copy of the entire IFSP which includes present levels of functioning, early intervention services, and transition plan;
- C. The most recent eligibility evaluation and any assessments that have occurred in the previous year, and if not contained in the child's record, where the information can be obtained; and
- D. any written reports from service providers within the last year.

Local districts are required to provide special education and related services to eligible children as identified in the IEP as of the child's third birthday. EarlySteps staff, providers and the family support coordinator will conduct all transition activities in a manner which supports the development and implementation of the IEP.

### 3. Transition Notification Procedures

DHH, as lead agency, assures that, no fewer than 90 days before the third birthday of the a toddler with a disability who may be eligible for IDEA, Part B services, the SEA and the LEA for the area in which the toddler resides are notified that the toddler, on his or her third birthday will reach the age of eligibility for services under IDEA, Part B. Notice to the LEA and the SEA will occur as soon as possible for transition for this notice as well as for late referrals as outlined below. Monthly, a data file is submitted to the SEA which contains the following information: The data submitted to DOE includes the child's name, date of birth, parent contact information including names, addresses and telephone numbers.

For "late" referrals to EarlySteps, the following also apply:

--For a child referred to EarlySteps 45-90 days prior to the third birthday, the child will continue with the EarlySteps eligibility process jointly with the LEA (as per consent from the family).

The intake coordinator and LEA will also assist the family with OCDD/HSA/D referrals. If the child is eligible for Part C and therefore considered potentially eligible for Part B, the initial IFSP meeting will meet all requirements of a transition conference.

--For a child referred fewer than 45 days from turning age three, EarlySteps will, with parental consent, refer to the SEA and the LEA for the area in which the toddler resides. The intake coordinator will assist the family with the referral. The intake coordinator and LEA will also assist the family with a referral to OCDD/HSA/D. If no parental written consent is obtained the Intake Coordinator will provide to the family the LEA's contact information such as contact name and phone number to the family.

EarlySteps does not require the SPOE to conduct an evaluation, assessment, or an initial IFSP meeting for children referred fewer than 45 days before that child's third birthday.

#### **G. ADOPTION OF POLICY ON STATEWIDE SYSTEM (303.101)**

The DHH, as lead agency, assures that the state's early intervention system is in effect, and that appropriate early intervention services are available to all eligible 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

The State will obtain approval by the Secretary before implementing any policy or procedure required for submission in the State's application for funds.

#### **H. TRADITIONALLY UNDERSERVED GROUPS (CFR 303..227)**

The State ensures that traditionally underserved groups (including minority, low income, homeless and rural families and children with disabilities who are wards of the State) are meaningfully involved in the planning and implementation of all requirements of Part C. This is achieved through participation on the SICC and regional interagency coordinating councils as well as through the delivery of services.

The state also ensures that these families have access to culturally competent services within their local geographical areas. This is achieved through provider recruitment and training.

## **I. SERVICES TO ALL GEOGRAPHIC AREAS (303.207)**

Early intervention services are provided through contractual arrangements with providers and agencies throughout the State. The service provider roster (Service Matrix) includes providers that cover all geographic areas of the state, both urban and rural. The matrix is updated and reviewed by central office and regional staff for availability of providers by location and by discipline. Recruitment activities are conducted as needed.

## **J. STATE PERFORMANCE PLANS AND DATA COLLECTION (303.701)**

(a) General: Louisiana has in place a State Performance Plan (SPP) that meets the requirements described in section 616 of IDEA; is approved by the Secretary; and includes an evaluation of the State's efforts to implement the requirements and purposes of Part C, a description of how the State will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary

(b) Review of the SPP: Louisiana will review its SPP at least once every six years and submit any amendments to the Secretary.

(c) Data collection:

(1) Louisiana will collect valid and reliable information as needed for its Annual Performance Report (APR) on the indicators established by the Secretary for the SPP.

(2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects data for a particular indicator through State monitoring or sampling, the State must collect and report data on those indicators for each EIS program at least once during the six-year period of a State performance plan.

### §303.702 State use of targets and reporting.

(a) General. Louisiana will use the targets established in the SPP and the priority areas to analyze the performance of each EIS program in implementing Part C

(b) Public reporting and privacy.

(A) Louisiana will report annually to the public on the performance of each EIS program located in the State on the targets in the SPP as soon as practicable but no later than 120 days following the State's submission of its annual performance report to the Secretary and

(B) Make the SPP, annual performance reports, and the State's annual reports on the performance of each EIS available through public means, including by posting on the Web site of the lead agency, distribution to the media, and distribution to EIS programs.

When collecting data through State monitoring or sampling, Louisiana will include in its public report on EIS programs the most recently available performance data on each EIS program and the date the data were collected.

(c) State performance report. Louisiana will report annually to the Secretary on the performance of the State under the SPP.

(d) Privacy. Louisiana will not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

The Lead Agency submits its annual performance report to the Office of Special Education Programs and to Louisiana's governor and makes it available to the public according to the requirements above.

#### **K. ANNUAL DATA COLLECTION REPORT (303.721-723)**

Louisiana ensures that it will conduct its own child count through the lead agency and report the number of infants and toddlers receiving early intervention services on December 1 of each year.

The report includes—

- (1) The number and percentage of infants and toddlers with disabilities in the State, by race, gender, and ethnicity, who are receiving early intervention services (and include in this number any children reported to it by tribes, tribal organizations, and consortia
- (2) The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons; and
- (3) The number of due process complaints filed, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.

The data collected for this requirement is reported to the Secretary and to the public.

#### **L. GENERAL EDUCATION PROVISIONS ACT (GEPA) (303.212)**

Louisiana ensures equitable access to and participation in Part C by making available referral and procedural safeguard materials in any language that is deemed to be large enough for demand. Additionally, language and/or sign interpreters are available to explain enrollment into Part C when requested by an intake or family service coordinator. Intake and family service coordinators are responsible for assuring that information is provided in the family's native language when necessary throughout the IFSP process and during the implementation of early intervention services.

## II Requirements related to Components of a Statewide System

### I. ELIGIBILITY CRITERIA (34 CFR 303.21)

Children who are eligible for early intervention services are children between the ages of birth and 36 months who have been determined by a multidisciplinary team as having:

**A. Established Medical Conditions:** diagnosed physical or mental condition associated with developmental disabilities or has a high probability of resulting in a developmental delay or disability. If documented by a physician's signature (or that of an audiologist in the case of hearing impairment or a speech/language pathologist in the case of a child with speech delay) children with the following diagnoses are eligible for the EarlySteps System. These diagnoses have a high probability of resulting in developmental delays.

Some ICD-9 code categories may contain both pediatric and adult diagnoses; however, adult codes are not meant for EarlySteps eligibility.

#### Genetic Disorders

##### **A. Chromosomal Abnormality Syndromes**

- Down syndrome (758.0), Trisomy 13 (758.1), Trisomy 18 (758.2)
- Autosomal deletion syndromes (758.3\_) includes Cri-du-chat (758.31), Velo-cardio-facial (758.32), others
- Other micro-deletion syndromes ( 758.5) include Miller-Dieker and Smith-Magenis syndromes (758.33)
- DiGeorge Syndrome (279.11)
- Fragile X (759.83)
- Prader-Willi (759.81)
- Other conditions due to autosomal anomalies (758.5)
- Conditions due to sex chromosome anomalies, (758.81) This does not include Klinefelter's Syndrome (XXY) or Turner's Syndrome (XO)
- Conditions due to anomaly of unspecified chromosome (758.9)

##### **B. Pre-natal exposures**

- Fetal alcohol syndrome (760.71)
- Narcotics exposure (760.72)
- Hallucinogenic agent exposure (760.73)
- Cocaine exposure (760.75)
- Anticonvulsant exposure (760.77)

##### **C. Neurocutaneous Syndromes**

- Incontinentia pigmenti (757.33)
- Neurofibromatosis (237.7)
- Sturge-Weber syndrome (759.6)
- Tuberous sclerosis (759.5)

#### **D. Inborn Error of Metabolism**

- Disorders of amino-acid transport and metabolism (270.0) includes:  
Phenylketonuria (PKU ) (270.1),Maple Sugar Urine Disease (270.3),Disorder of Urea cycle defects (270.6), organic acidemias, others
- Disorders of Carbohydrate metabolism, only (271) Glycogenosis (271.0), Galactosemia (271.1)
- Disorders of Lipid Metabolism (272) only, Lipidoses (272.7),Other disorders of lipid metabolism (272.8)
- Hunter's and other mucopolysaccharidoses (331.7)
- Disorders of Lipid Metabolism (only 272.7, 272.8)

#### **E. Cerebral degenerations of the central nervous system-- (330)**

- Leukodystrophy (330.0)
- Cerebral lipidoses such as TaySach's (330.1)
  - Fabry's disease
  - Gaucher's disease
  - Niemann Pick
  - sphingolipidoses (331.4)
- Other specified degenerations in childhood (330.8)
- Unspecified cerebral degenerations in childhood (330.9)

#### **F. Prenatal Infections**

- "TORCH" infections (771.0--771.2), including:
  - --Congenital rubella (771.0)
  - --Congenital cytomegalovirus infection (CMV) (771.1)
  - --Congenital herpes simplex (771.2)
  - --Congenital toxoplasmosis (771.2)

#### **F. Other Syndromes**

- Chondrodystrophies (756.4)
- Congenital anomalies of central nervous system (742.--)
- Osteodystrophies (756.5)
- Cerebral gigantism (253.0)
- Other specified congenital anomalies affecting multiple systems(759.8),includes Beckwith Weiderman Syndrome (758.89), Cornelia de Lange Syndrome (759.8), others (759.89)

#### **Sensory Impairment**

Impairment can be congenital or acquired

- Profound impairment, both eyes (369.0-)
- Moderate or severe impairment, better eye, profound impairment lesser eye (369.1--)
- Moderate or severe impairment, both eyes (369.2)
- Legal blindness, as defined in USA (369.4)
- Retinopathy of prematurity (Grades 4 and 5) bilateral (362.21)

- Cortical Blindness (377.75), bilateral
- Hearing impairment (25dB loss or greater) (389.--), unilateral or bilateral
- Auditory Neuropathy
- Central hearing loss (389.14)

Documentation of visual impairment must be by a doctor. Documentation of hearing loss must be by a doctor or audiologist.

### **Orthopedic and Neurological Disorders**

- Anoxic brain damage (348.1)
- Anterior horn cell disease (335.--)
- Arthrogyposis (728.3)
- Injury to the Brachial plexus—birth trauma (767.6) Brachial plexus—post perinatal origin (953.4)
- Cerebral cysts (348.0)
- Cerebral palsy (all types) (343.--)
- Cleft hand (755.58)
- Congenital anomalies of the central nervous system (742.--)
- Congenital anomalies of limbs (755)
- Congenital musculoskeletal anomalies (756.0, 756.13, 756.51)
- Degenerative progressive neurological conditions (330.--)
- Developmental apraxia of speech (784.69)
- Encephalopathy Not Otherwise Specified (348.30)
- Fracture of vertebral column with spinal cord injury (806.--)
- Hemiplegia and hemiparesis (342.--)
- Hereditary\degenerative diseases of the central nervous system (331.3, 331.4,331.7, & 335.0)
- Hydrocephaly, congenital (742.3) and acquired (331.3-331.4)
- Infantile spasms (345.6)
- Intraventricular hemorrhage (IVH) - Grade 3 (772.13) & Grade 4 (773.14)
- Meningomyelocele/Myelomeningocele/Spina Bifida/Neural Tube Defect (741.0 & 741.9)
- Muscular dystrophies and other myopathies (359.0, 359.1, 359.2)
- Paralytic syndromes (344.0-344.5)
- Spinal cord injury (952.--)
- Stroke (434.00)
- Traumatic Brain Injury

### **Social Emotional Disorders**

- Childhood Depression (311)
- Reactive attachment disorder (313.89)

**Pervasive Developmental Disorders** (299.--) including:

- Asperger syndrome / disorder (299.8)
- Autism (299.0)
- Childhood disintegrative disorder (299.1)
- Unspecified pervasive developmental disorder - PDD-NOS (299.9)
- Rett Syndrome (330.8)

**Medically Related Disorders**

- Congenital or infancy-onset hypothyroidism (243)
- Cleft palate (749.00 and 749.2)—prior to the operation to repair the cleft and up to one-year post operative
- Craniosynostosis (756.0)
- Premature closure of the sutures (756.0)
- Lead intoxication ( $> \mu\text{g/dL}$ ) (984)
- Very low birth weight ( $<1500$  grams at birth) up to 12 months corrected age only (765.0, 765.1-765.5)
- Preterm infants 32 weeks or less gestational age up to 12 months corrected age only (765.21-765.26)
- Non-organic failure to thrive (783.41)
- Chronic respiratory failure or ventilator dependence (518.83)
- Bronchopulmonary dysplasia (770.7)

**B. Developmental Delay (303.111)**

The following rigorous definition of developmental delay provides the mechanism by which the system points of entry (SPOE's) appropriately identify infants and toddlers with disabilities that are in need of services under this part:

Children under the age of three who have a developmental delay of at least 1.5 SD (standard deviation) below the mean on the Battelle Developmental Inventory II in two of the following developmental domains are eligible for EarlySteps:

- a. cognitive development
- b. physical development
- c. communication development
- d. social or emotional development
- e. adaptive skills development (also known as self-help or daily living skills)

**Use of Informed Clinical Opinion to Determine Eligibility and to conduct evaluation and assessment of the child**

If a child does not qualify under the developmental delay criteria using the Battelle Developmental Inventory, 2<sup>nd</sup> edition (BDI-2) or established medical diagnosis category, the

child may qualify by use of informed clinical opinion of developmental delay in any area of development (see list above) or if one of the following conditions apply:

a. abnormal sensory-motor responses, including:

- Abnormal tone
- Limitations in joint range of motion
- Abnormal reflexes or postural reactions
- Oral-motor skills dysfunction, including feeding difficulties

To use informed clinical opinion for an abnormal sensory-motor response, assessment/evaluation providers must document that the condition is due to central nervous system or brain dysfunction and not due to a temporary medical condition, such as broken bone, septic arthritis, etc.

b. affective or social disorders, including:

- persistent failure to initiate or respond to most social interactions
- persistent fearfulness that does not respond to comforting by caregivers
- self-injurious or extremely aggressive behaviors
- extreme withdrawal
- unusual and persistent patterns of chronic sleep disturbances
- significant regressions in functioning
- inability to communicate emotional needs

To use informed clinical opinion for an affective or social disorder/condition, assessment/evaluation providers must document that the condition is atypical for a child this age, interferes with normal functioning and makes day-to-day care of the child difficult.

**To establish eligibility by informed clinical opinion, the following procedures must be adhered to:**

Initial Eligibility Determination:

- the child must be assessed/evaluated by two (2) or more qualified professionals:
  - The initial assessment/evaluation must include the Battelle Developmental Inventory II
  - The second assessment/evaluation must include an assessment specific to the child's area of concern
- Assessment/evaluation providers must document that the behavior/condition is likely to worsen and interferes with normal development.
- The behavior/condition must be observed by the assessment/evaluation providers during the course of administering their evaluations/assessments,
- The behavior must be substantiated by parent, caregiver, or physician report.

Providers for all assessments/evaluations are qualified and have competence in the area(s) of concern for the child. The second opinion evaluation/assessment must be performed by a professional with expertise in the developmental domain of concern that was identified in the initial assessment.

Re-Determination of Eligibility:

Criteria and procedures are the same as for initial eligibility. However, if the child is to continue to be eligible by informed clinical opinion, the second assessment in the area of concern may be completed by the same provider that is administering the BDI-2.

EarlySteps ensures that informed clinical opinion may be used as an independent basis to establish a child's eligibility; however, informed clinical opinion may not be used to negate the results of evaluation instruments used to establish eligibility.

#### **RESIDENCY REQUIREMENTS**

Any eligible infant or toddler with a disability living in Louisiana will receive early intervention services even if the child or family have not yet established residency under State law.

### **II. CENTRAL DIRECTORY (303.117)**

The State of Louisiana assures that it has developed a central directory of information, which includes:

1. public and private early intervention services, resources, and experts available in the state;
2. research and demonstration projects being conducted in the State, and;
3. professional and other groups that provide assistance to children eligible under this part and their families including parent support groups and advocate associations.

The state of Louisiana ensures that the central directory is in sufficient detail such that:

1. the public can determine the nature and scope of the services and the assistance available from each of the sources listed in the directory, and
2. the public can contact, by telephone or letter, any of the sources listed in the directory.
3. the central directory is updated at least annually and accessible to the general public
4. information about the central directory is available in each geographic region of the State, including rural areas, and in places and a manner that ensure accessibility by persons

### **III. TIMETABLES FOR SERVING ALL ELIGIBLE CHILDREN**

The state of Louisiana assures that the required statewide system of early interventions services is in effect and policy is in effect that ensures appropriate early intervention services are available to all eligible infants and toddlers with disabilities in the state, including Indian infants/toddlers living on reservations geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State.

### **IV. PUBLIC AWARENESS PROGRAM (34 CFR 303.116)**

Louisiana assures that a public awareness program has been developed that focuses on the early identification of children who are eligible, including the preparation and dissemination of information materials for parents on the availability of early intervention services by the lead

agency through primary referral sources and provides for referring any child as soon as possible and no later than 7 days.

The state of Louisiana assures that a public awareness program has been developed that provides the following information:

1. availability of the early intervention system;
2. the child find system, including:
  - a) purpose and scope of the system,
  - b) how to make referrals,
  - c) how to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services; and,
3. the Central Directory.

#### **V. PREREFERRAL PROCEDURES--COMPREHENSIVE CHILD FIND SYSTEM (34 CFR 303.302)**

The state of Louisiana ensures that the statewide system includes a comprehensive child find system that is consistent with Part B of IDEA (34 CFR 300.111) and meets the requirements for referral, includes timelines , provides for participation by primary referral sources, ensures rigorous standards to identify, locate, and evaluate all eligible infants and toddlers.

#### **Scope of the Child Find System:**

The lead agency, with the advice and assistance of the SICC, is responsible for implementing the child find system including methods to identify, locate, and evaluate all infants and toddlers.

Child find efforts include

- Indian infants and toddlers with disabilities residing on a reservation in Louisiana including:
- coordination with tribes, tribal organizations and consortia to identify infants and toddlers with disabilities in Louisiana based, in part, on the information provided by them to the lead agency
- infants and toddlers with disabilities who are homeless, in foster care, and wards of the State

#### **Coordination:**

The Child Find System in Louisiana is coordinated with all other major efforts to locate and identify children. Efforts are conducted by state agencies responsible for administering the various education, health, and social service programs relevant to this part and other Indian tribes that receive payments under this part and other Indian tribes. This coordination includes:

1. Child Find authorized under Part B of the Act;
2. Maternal and Child Health program under Title V of the Social Security Act including the Maternal, Infant, and Early Childhood Home Visiting Program;
3. Medicaid's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program under Title XIX of the Social Security Act;
4. Programs with the Developmental Disabilities Assistance and Bill of Rights Act of 2000;
5. Head Start Act, including Early Head Start programs under section 645A of the Head Start Act; and,

6. Supplemental Security Income program under Title XVI of the Social Security Act.
7. 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)
8. Child care programs in Louisiana
9. Programs that provide services under the Family Violence and Prevention and Services Act
10. Early Hearing Detection and Intervention (EHDI) systems (42 USC 280g-1) administered by the Centers for Disease Control and
11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act.

The lead agency, with the advice and assistance of the SICCC, takes steps to ensure that:

1. there will not be unnecessary duplication of effort by the various agencies programs identified above and
2. the State will make use of the resources available through each public agency and each EIS provider in the State to implement the child find system in an effective manner.

Part C funds may be used to improve collaboration efforts to identify and evaluate at-risk infants and toddlers, make referrals to other available services for such children, and to conduct periodic follow-up to determine if the status of the infant or toddler has changed and may be eligible for early intervention services as provided by Part C.

### **Referral Procedures (303.303)**

The following are the procedures are used by primary referral sources for referring a child under the age of three to EarlySteps:

1. When a child is suspected of having a disability or developmental delay, including children who are the subject of substantiated abuse or neglect or children identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, the primary referral source contacts the system point of entry for that geographic area. As soon as possible and no later than 7 days.
2. The referral form may be emailed or faxed to the system point of entry office. When the referral is received by telephone, the SPOE completes the referral form.
3. Once received by the system point of entry, the family is contacted within three (3) working days by an intake service coordinator.
4. Primary referral sources are informed about the referral process and procedures through the public awareness activities, brochures, and presentations, and other activities for the purposes of Child Find. This information is also available through any participating state agency.
5. Primary referral sources include, but are not limited to:
  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. Local educational agencies and schools
6. Public health facilities;
7. Other public health social service agencies; and,
8. Other clinics and health care providers.
9. Public agencies and staff in the child welfare system, including child protective services and foster care;
- 10 Homeless family shelters
11. Domestic violence shelters and agencies.

### **Post-Referral Procedures—Screenings, Evaluations, and Assessments-303.310-322**

#### Post-Referral timeline (45 days)

Once the System Point of Entry, receives a referral, the intake coordinator is appointed as soon as possible.

#### **Screening Procedures:**

1. Louisiana has adopted the following policy for post-referral screening procedures (303.320):
  - a. Screening is conducted using a State-required screening instrument and is administered with the child and parent following receipt of parental consent.
  - b. If a referral is received which includes a recently completed screening using the state-required screening tool and the results so indicate, EarlySteps will proceed to eligibility determination with parent consent. The SPOE may also repeat the screening if indicated.
  - c. If a referral is received which includes information from a child’s medical and other records which establishes eligibility according to the “Established Medical Criteria,” with parent consent, EarlySteps will proceed to assessment of the child and family.
  - d. Parents are provided notice of the State’s 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.
  - e. If the parent consents to the screening and the screening or other information indicates that the child is—
    - (i) suspected of having a disability, notice is provided to and consent is obtained from the parent and an evaluation and assessment is conducted.
    - (ii) not suspected of having a disability, the lead agency or EIS provider, must ensure that the 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.
  - f. 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 as required under 303.421 and with the appropriate notice requirements.
  - g. 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 as required, even if EarlySteps has determined that the child is not suspected of having a disability.
  - h. State-required screening instrument(s) are administered by personnel trained to administer those instruments.

Using the screening procedures established, Louisiana does not provide an evaluation for a referred child or make early intervention services available unless the child is suspected of having a disability, or the parent requests an evaluation or the child is eligible for EarlySteps.

2. Within 45 days after it receives a referral, a System Point of Entry shall:
  - a. obtain informed, written parental consent to proceed with screening procedures or evaluation/assessment procedures according to the State's screening procedures process,
  - b. If the child proceeds to evaluation, facilitate the collection and review of any relevant existing documentation to complete the evaluation for eligibility in accordance with 34 CFR 303.321; and,
  - c. Complete the eligibility determination process and proceed to the development of the IFSP according to the requirements in VI. and VII. below.

Once a referral is received in the local system point of entry, an intake service coordinator is assigned to meet with the family, explain the Part C system and obtain informed, written consent to proceed. This is completed within 10 working days from date of referral. The intake service coordinator is responsible for facilitating the screening and/or evaluation process for eligibility determination. This process includes obtaining all current information from the family, primary medical home, and other sources that will assist the determination of the child's eligibility for Part C services. According to the State's screening procedures and based on the results, the intake service coordinator will arrange the timely, comprehensive, multidisciplinary evaluation and assessment of the child for the purpose of determining eligibility and for identification of the unique strengths and needs of the child and the identification of services appropriate to meet those needs.

For each child who has been determined eligible for the program, a meeting to develop the initial IFSP is conducted within 45 calendar days of the referral.

A written Notice of Action for Ineligibility and procedural safeguards are provided to families whose children are not found eligible for Part C and referral assistance is provided to link them with other services for ongoing developmental monitoring. The intake service coordinator is responsible for coordinating the development of the initial IFSP.

If circumstances prevent this timeline from being met, the public agency will follow the procedures outlined in Section VI: Evaluation and Assessment.

#### NOTICE TO PARENTS (34 CFR 300.404)

Agencies participating in the Louisiana statewide system of early intervention services must give adequate notice to fully inform parents about the requirements under 34 CFR 303.320 and 303.321 (Comprehensive Child Find System) and 303.404 This includes:

1. A description of the extent to which the notice is given in the native languages of the various population groups in the state;
2. A description of 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 purpose for which the of information will be used;

3. A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information; and,

4. A description of all the rights of parents and children regarding this information, including their rights under Part C confidentiality provisions in 303.401 through 303.417 and those detailed by the Family Educational Rights and Privacy Act (FERPA).

The lead agency will publish or announce a notice of the activity before any major identification, location, or evaluation (child find) activity is conducted. This notice must be published or announced in newspapers or other media with circulation adequate to notify parents throughout the State.

## **VI. EVALUATION of the child and ASSESSMENT of the child and family (34 CFR 303.321)**

### **General**

The state of Louisiana ensures that the statewide system of early intervention includes:

1. the performance of a timely, comprehensive, multidisciplinary evaluation and assessment of each child, birth through age two, referred for evaluation or early intervention services and suspected of having a disability.
2. If the child is determined eligible as an infant or toddler with a disability –
  - 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 the child.

DHH is responsible for ensuring that all affected public agencies and service providers in the state implement the requirements of this section.

### Parental Consent

Written parental consent must be obtained prior to:

1. conducting ~~the initial~~ all evaluations and assessments of a child for eligibility purposes,
2. conducting any assessments required for the IFSP development, and
3. initiating the provision of early intervention services.

If written consent is not given, the intake service coordinator who is facilitating this process with the family, shall make reasonable efforts to ensure that the parent is fully aware of the nature of the evaluation and assessment or the services that would be available and that the parent understands that the child will not be able to receive the evaluation and assessment or services unless written consent is given by the parent.

## Definitions

The following definitions apply to evaluation and assessment activities:

1. A child's evaluation means the procedures used by appropriate, qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of infants and toddlers with disabilities in 34 CFR 303.21, including determining the status of the child in each of the developmental areas.

Initial Evaluation refers to the child's evaluation to determine his or her initial eligibility

2. Assessment means the ongoing procedures used by appropriate, qualified personnel throughout the period of a child's eligibility under this part to identify:

- a. the child's unique strengths and needs and the early intervention services appropriate to meet those needs;
- b. and includes the assessment of the resources, priorities, and concerns of the family and identification of supports and services necessary to enhance the family's capacity to meet the developmental needs of their child with a disability; and,

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

--A child's medical or other records may be used to establish eligibility without conducting and evaluation of the child if those records indicate that the child's level of functioning in one or more of the developmental areas identified in 303.21 constitutes a developmental delay or that the child meets the State's eligibility criteria with an established medical condition. If the child's eligibility is established according to this paragraph, the lead agency will conduct the assessment of the child and the family as defined above.

## Child Assessment

After informed, written parental consent is obtained, the evaluation for eligibility or assessment of the child and family may begin.

The evaluation and assessment for each child must:

1. be conducted by personnel trained and qualified to utilize appropriate methods and procedures, and
2. be based on informed clinical opinion.

Eligibility Determination team membership includes:

- The child's family,
- The service coordinator; and,
- At least one or more persons from different professions or disciplines

The procedures for evaluation of each child for eligibility determination purposes must include the following:

1. administering the State-approved evaluation instrument.
2. taking the child's history and gathering information including an interview with the parent and a review of current health records and medical history, educational or other records;

3. an interview with the family regarding their child's early development, including their observations and concerns;
4. an evaluation of the child's level of functioning in each of the following areas:
  - a) cognitive development,
  - b) physical development, including vision and hearing,
  - c) communication development,
  - d) social/emotional development, and
  - e) adaptive development;
5. Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary to understand the full scope of the child's unique strengths and needs.

Qualified personnel must use informed clinical opinion when conducting and evaluation and assessment of the child. In addition, informed clinical opinion may be used as an independent basis to establish a child's eligibility even when other instruments do not establish eligibility; however, informed clinical opinion will not be used to negate the results of the evaluation instrument used to establish eligibility.

Procedures for assessment of the child and family must be conducted by qualified personnel, identify the child's unique strengths and needs, and the early intervention services appropriate to meet those needs and include a:

#### Child Assessment

1. review of the eligibility evaluation
2. personal observations of the child
3. identification of the child's needs in the developmental areas listed above

#### Family Assessment

1. Family assessments must be family-directed and designed to identify 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 the infant and toddler.
2. Any assessment that is conducted must be voluntary on the part of each family member participating in the assessment and their consent documented in the child's early intervention record; and, if an assessment of the family is carried out, the assessment must:
3. Be based on information provided by the family through a State-approved assessment tool and also through an interview with those family members who elect to participate in the assessment; and,
4. Incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development

#### Timelines

The evaluation for eligibility and the initial assessment of each child and family determined to be eligible for Part C services and the initial IFSP meeting must be completed within 45 calendar days of referral to the lead agency. The initial family assessment must be conducted within the 45-day timeline if the parent concurs and even if other family members are unavailable.

The 45-day timeline 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 record.
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.

In the event of exceptional circumstances that make it impossible to complete the evaluation and assessment within 45 days:

1. system points of entry will document those circumstances or repeated attempts by the lead agency or EIS provider to obtain parent consent and
2. complete the screening, if applicable, the initial evaluation, the initial child and family assessments, and the initial IFSP as soon as possible after the documented exceptional family circumstances no longer exist or parental consent is obtained for the needed procedure and
3. develop and implement an interim IFSP, to the extent appropriate and consistent with Section 303.345

#### Eligibility statement

The intake coordinator is responsible for facilitating the development of the team for eligibility determination purposes. The eligibility statement must be documented on the state-approved form. This eligibility statement confirms the following:

1. the child's diagnosed medical condition or
2. the area(s) in which the child was found to be delayed.

#### Determination that a child is not eligible

If a child is found not to be eligible for EarlySteps based on the eligibility determination procedures, Louisiana provides the parent with written prior notice as required in 303.421. The notice includes information about the parents' right to dispute the eligibility determination through the State's dispute resolution mechanisms such as a due process hearing, mediation, or filing a State complaint.

#### PROVISION OF SERVICES BEFORE EVALUATION AND ASSESSMENT ARE COMPLETED or INTERIM IFSP (303.310)

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment if the following conditions are met;

1. informed, written parental consent is obtained;
2. an interim IFSP is developed that includes:
  - a. The name of the family service coordinator who will be responsible consistent with 303.344 (g) for implementation of the interim IFSP and coordination with other agencies and persons, and

- b. the early intervention services that have been determined to be needed immediately by the child and the child's family
3. the evaluation and assessment are completed within 45 calendar days of referral.

The use of an interim IFSP does not release the public system from meeting the 45-day timeline

If the 45-day timeline cannot be met due to documented exceptional family circumstances, the Intake Coordinator or FSC will develop and implement an interim IFSP, to the extent appropriate.

### **NONDISCRIMINATORY PROCEDURES** (34 CFR 303.321 (4)(5-6))

Louisiana assures that all agencies and early intervention providers responsible for evaluation and assessment activities shall implement the following nondiscriminatory procedures:

1. assessments, tests and other evaluation materials and procedures must be administered in the native language of the child and/or the family members being assessed, or other mode of communication, unless clearly not feasible to do so;
2. any assessment/evaluation procedures and/or materials must be selected and administered so as not to be racially or culturally discriminatory;
3. no single procedure is used as the sole criterion for determining a child's eligibility; and,
4. all evaluations and assessments must be conducted by qualified personnel

All providers are responsible for ensuring that the family understands the intent and purpose of any evaluation or assessment activity. Results of any evaluation and assessment activity are provided to the family verbally and in writing within a reasonable timeframe, and before results are used in IFSP development.

### **VII. INDIVIDUALIZED FAMILY SERVICE PLANS (IFSP's)**(34 CFR 303.340)

The state of Louisiana ensures that the State's system of early intervention services includes policies and procedures for the development of IFSP's that meet the requirements of this section and 34 CFR 303.342 through 303.346.

The state of Louisiana assures: the development, review and implementation of a current IFSP for each eligible child and the child's family

1. The IFSP is a written plan that outlines the provision of early intervention services for the child and family.
2. Is developed by a multidisciplinary team including the parent and appropriately qualified personnel involved in the provision of early intervention services;
3. Is based on the multidisciplinary evaluation and assessment of the child and the assessment of the family; and,
4. Includes services necessary to enhance the development of the child and the capacity of the family to meet the special needs of the child (34 CFR 303.340).

5. Includes a description of the appropriate transition services for the infant or toddler and as appropriate, steps and services to exit the program.

If there is a dispute between agencies as to who has responsibility for developing or implementing an IFSP, DHH shall resolve the dispute or assign responsibility.

#### PROCEDURES FOR IFSP DEVELOPMENT, REVIEW, AND EVALUATION (34 CFR303.342)

##### a. Meeting to Develop Initial IFSP

For each child who has been determined eligible for the system, a meeting to develop the initial IFSP must be conducted within 45 calendar days of the referral. The intake service coordinator at the SPOE is responsible for facilitating the development of the initial IFSP.

##### b. Periodic Review

IFSP's are reviewed every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the 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 revision or modification of the results, outcomes or early intervention services identified in the IFSP or services is necessary.
- iii. A team meetings or other means that are acceptable to parents and other participants are be used to conduct these reviews.

##### c. Annual Meeting to Evaluate the IFSP

A meeting is conducted at least annually to evaluate and revise, as appropriate, the IFSP for the child and the child's family. The annual evaluation of the IFSP includes the requirement to use results of any current evaluations, assessments of the child and family, and other information to

- 1) determine if the child continues to be eligible for Part C services, and,
- 2) develop and revise outcomes identified in the IFSP that assist in identifying what early intervention services that are needed and will be provided. A new IFSP is developed for each child and family at the annual meeting. This annual meeting to evaluate the IFSP requires both prior written notice to the family and the IFSP meeting notification to all IFSP team members be provided. Any needed assessments must be conducted and the report provided to the family service coordinator at least 30 days prior to the annual IFSP meeting. The family service coordinator is responsible for ensuring that parents and other team members have the opportunity to review this information before the annual IFSP meeting.

##### Accessibility and Convenience of Meetings

The IFSP meetings must be conducted

- i. in settings and at times convenient to families and
- ii. in the native language of the family or other mode of communication used by the family unless clearly not feasible to do so.

iii. Meeting arrangements must be made with and written notice provided to the family, IFSP team members and other participants as early as possible and no earlier than 10 calendar days prior to the meeting date to ensure that they will be able to attend.

#### PARENTAL CONSENT FOR EARLY INTERVENTION SERVICES

The contents of the IFSP shall be fully explained to parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the IFSP. If the parents do not provide consent for a particular early intervention service OR withdraw consent after first granting it, that service may not be provided. The early intervention services must be provided as soon as possible after parental consent is obtained and in no case, later than 30 days after consent is received.

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

The requirement for the annual evaluation incorporates the periodic review process. Therefore, it is necessary to have only one separate periodic review each year (i.e., six months after the initial and subsequent annual IFSP meetings), unless conditions warrant otherwise or at the request of the parent.

Because the needs of infants and toddlers change so rapidly, certain evaluation and/or assessment procedures may need to be repeated before conducting the periodic review, quarterly team meeting, or annual evaluation meetings the preceding section.

#### PARTICIPANTS IN INITIAL AND PERIODIC REVIEW IFSP MEETINGS (34 CFR 303.343)

A. Each initial IFSP meeting must include the following participants:

1. the parent or parents of the child;
2. other family members, as requested by the parent(s) if feasible;
3. an advocate or person outside of the family, at the request of the parent;
4. the intake service coordinator who has been working with the family since the initial referral for evaluation and the family service coordinator that has been designated responsible for the implementation of the IFSP;
5. a person or persons directly involved in conducting the evaluations and assessments; and,
6. as appropriate, early intervention service providers to the child and/or family.

B. Each annual IFSP meeting must include the following participants:

1. the parent or parents of the child;
2. other family members, as requested by the parent(s) if feasible;
3. an advocate or person outside of the family, at the request of the parent;
4. the family service coordinator responsible for the implementation of the IFSP;

5. a person or persons directly involved in conducting the evaluations and assessments; and,
6. early intervention service providers providing services to the child and/or family.

If a person directly involved in conducting an evaluation and/or assessment is unable to attend the IFSP meeting, arrangements must be made for that person's involvement through other means, such as:

- i. participation by telephone conference call or
- ii. through making pertinent records available at the meeting.
- iii. A knowledgeable authorized representative may also attend the meeting as a substitute for the person unable to attend (34 CFR 303.343 (2)). This includes early intervention service providers who conduct on-going assessments.

Families work with the intake service coordinator to identify the members of the multidisciplinary team who will develop the initial IFSP. The family service coordinator is responsible for the IFSP review and annual IFSP meetings. It is the role of the intake or ongoing service coordinator to facilitate the development of the IFSP including scheduling this meeting with the family, distributing the written notice of the meeting to participants, facilitating the meeting itself, and developing the IFSP in conjunction with the multidisciplinary team during the IFSP meeting.

#### C. Periodic IFSP Review Team Meetings

Participants at the periodic IFSP reviews include

1. parents,
2. other family members requested by the parents,
3. advocates or other persons outside the family (if requested by the parents,
4. the family service coordinator.
5. early intervention service providers and
6. Other representatives (such as persons conducting evaluation and assessments) may participate if conditions warrant this (34 CFR 303.343. (b)).

#### CONTENT OF THE IFSP (34 CFR 303.344)

Each IFSP must contain the following components:

1. Information about the child's status: a statement of the child's present levels of physical development (including vision, hearing, and health status), cognitive development, communication development, social or emotional development, and adaptive development based upon the information from the child's evaluation and assessments
2. Family Information: with the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the infant or toddler with a disability identified through the assessment of the family;
3. Results or Outcomes: a statement of the measurable results or measurable outcomes expected to be achieved for the infant or toddler (including pre-literacy and language skills, as

developmentally appropriate) and family, for the child; and the criteria, procedures, and timelines used to determine:

- a. the degree to which progress toward achievement of the results or outcomes identified in the IFSP is being made, and
- b. whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary;

4. Early Intervention Services:

- a. a statement of the specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family to achieve the results or outcomes, including the length, duration, frequency, intensity, and method of delivering the early intervention services;
- b. a statement of the natural environments in which each early intervention service shall be provided to the maximum extent appropriate, or a justification of the extent, if any, to which the early intervention services will not be provided in a natural environment;
- c. the appropriate setting for providing early intervention services,
- d. any justification for not providing a particular early intervention service in the natural environment must be:
  - i. made by the IFSP team including the parent and other team members
  - ii. consistent with the natural environment provisions in 303.13(a) (8), 303.26, and 303.126 and
  - iii. based on the outcomes that are identified by the IFSP team
- e. the location of the early intervention services and
- f. the payment arrangements, if any;

5. Other services: to the extent appropriate, the IFSP must:

- a. identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required or funded by Part C; and
- b. If those services are not currently being provided, include a description of the steps the service coordinator or family will take to secure those services. This requirement does not apply to routine medical services such as immunizations and well-baby care unless a child needs those services and the services are not otherwise available or being provided;

6. Dates and duration of services. the projected dates for initiation of each early intervention service which must be as soon as possible after the parent consents to the service, and no later than 30 days from parent written consent to the service, (with the exception of the other services identified in number 5); and the projected duration, of each early intervention services;

7. Service Coordinator. The IFSP must include the name of the service coordinator from the profession most immediately relevant to the child's or family's needs or who is otherwise qualified to carry out all applicable responsibilities under this part of the Act, who is responsible for the implementation of the IFSP, ongoing monitoring of the IFSP, and coordination with other agencies and persons including transition services. In meeting this requirement for the initial

IFSP, the System Point of Entry staff are responsible for coordinating the IFSP meeting and will assist the family in the selection of the ongoing family service coordinator;

8. Transition from Part C services. The IFSP must include the steps and services and other activities that the IFSP team determines are necessary to be taken to support the smooth transition of the child from Part C services to--

- a. to preschool services under Part B of IDEA to the extent that those services are appropriate,
- b. Part C services or
- b. to other appropriate services if available, such as Head Start, Child Care, Title I Preschool Programs, etc.

The steps for transition must include:

- a. discussions with, and training of, parents regarding future placements and other matters related to the child's transition;
- b. procedures to prepare the child for changes in service delivery including steps to help the child adjust to, and function in, a new setting; and
- c. confirmation that child find information about the child has been transmitted to the local education agency or other relevant agency, to ensure continuity of services including the most recent evaluation and assessment information of the child and the family and most recent IFSP. This requires parental consent.

9. Assistive technology services or devices as appropriate, including:

- a. identification of the professional who will assist the family with the assistive technology device,
- b. what outcome(s) the assistive device supports or facilitates,
- c. where the device is maintained or located,
- d. a statement of the frequency and intensity of the time the device/service is used, and
- e. method by which the device/service is provided.

The following definitions apply to the IFSP:

- a. frequency and intensity mean the number of days or sessions that a service will be provided and whether the service is provided on a group or individual basis.
- b. 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;
- c. location means the actual place or places where a service will be provided; and,
- d. method means how a service is provided
- e. duration means projecting when a given service will no longer be provided, such as when a child is expected to achieve the results or outcomes in the IFSP

#### RESPONSIBILITY AND ACCOUNTABILITY (CFR 303.346)

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.

### **VIII. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD) (34 CFR 303.118)**

The State of Louisiana has developed a CSPD plan that is consistent with the requirements of Part C-IDEA (34 CFR 300. 118-119).

This personnel development system in Louisiana:

1. provides for pre-service and in-service trainings conducted on an interdisciplinary/team basis whenever possible;
2. provides for training of a variety of personnel needed to meet the requirements of this part, including public and private providers, primary referral sources, paraprofessionals, intake and family service coordinators; and
3. ensures that the training provided relates specifically to:
  - a. implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;
  - b. promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services, including the following:
    - i. understanding the basic components of early intervention services available in the state;
    - ii. meeting the interrelated social/emotional, health, and developmental, needs of eligible children under this part;
    - iii. assisting families in enhancing the development of their children, understanding their rights and in fully participating in the development and implementation of IFSPs;
  - c. implementing strategies for working in rural and inner-city areas; and,
  - d. training personnel in coordinating transition services for infants and toddlers from an early intervention program under Part C to a preschool program under section 619 of Part B or to other appropriate services.
  - e. training personnel who provide services 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.

### **IX. PERSONNEL STANDARDS (34 CFR 303.119)**

Louisiana's professional requirements refer to entry level requirements that:

1. are based on the highest requirements in the state applicable to the profession or discipline in which a person provides early intervention services, and
2. establish suitable qualifications for personnel providing early intervention services to children and families who are served by state, local, and private agencies.
3. Require maintenance of qualifications by providers as required by their specific profession or discipline.

Highest requirements 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 requirements that apply to that profession or discipline.

Profession or Discipline means a specific occupational category that:

1. provides early intervention services to eligible children/families;
2. has been established or designated by the State; and,
3. has a required scope of responsibility and degree of supervision.

State approved or recognized certification, licensing, registration, or other comparable requirements means the requirements that a state legislature either has enacted or has authorized a state agency to promulgate through rules to establish the entry-level standards for employment in a specific profession or discipline in that state.

The highest professional standard by discipline for the state of Louisiana are shown in the following table and include paraprofessional and assistant level standards where given including training and supervision requirements. The requirements of all state statutes and rules of all state agencies applicable to serving children under this part were considered.

#### Steps to Bring Personnel into Compliance with Highest Standard

The following describes the steps Louisiana is follows to bring personnel into compliance with the highest standards, the procedures for notifying public agencies and personnel of those steps, timelines for requiring retraining or hiring of personnel that meet the state's requirements, and policies for addressing personnel shortages.

All early intervention providers are required to complete the Part C Core Modules as part of provider enrollment. Exempted from this requirement are physicians, providers of durable medical equipment and transportation providers. The Part C Core Modules are designed to present providers with the necessary information to be effective participants in the system of services. The Module Set explains federal and state regulations and expectations for performance as an IFSP team member and service delivery in natural environments. Early Intervention Providers must complete the *Orientation* module prior to being available on the provider matrix. The other modules (Child Development, Making Informed Decisions, etc) must be completed within 90 days after enrollment. Continued provider enrollment requires the completion of new Part C modules prepared by the lead agency.

If situations arise where a qualified provider cannot be located to provide an early intervention service on a child's IFSP in a shortage area, it is the policy of DHH to take the necessary steps to find a provider who may have qualifications close to the appropriate qualifications of the needed provider. DHH will establish an agreement with this individual that describes the steps this individual will take to meet the appropriate qualifications within three years. These steps will include yearly benchmarks that the individual must attain. This provider will be allowed to enroll with the Central Finance Office under a provisional status that is reviewed yearly for compliance with the benchmarks identified in the agreement with DHH.

The state uses the following methods to notify the public about the steps it is taking to bring personnel into compliance with the highest standard:

1. public review of grant application;
2. regional provider forums;
3. health professions advisory board presentation;
4. SICC meetings and minutes;
5. Web site postings
4. direct mailings; and,
5. presentations to professional organizations and faculties at universities and colleges.

Information concerning personnel standards for Louisiana's early intervention system are maintained by the DHH, Office for Citizens with Developmental Disabilities. Louisiana has Personnel Standards on file with the US Department of Education, OSEP and on its website at <http://www.earlysteps.dhh.louisiana.gov>.

## **X. PROCEDURAL SAFEGUARDS**

### **GENERAL RESPONSIBILITY OF LEAD AGENCY FOR PROCEDURAL SAFEGUARDS** (34 CFR 303.400)

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

- (a) establishing procedural safeguards that meet the requirements of Subpart E (303.400) ; and
- (b) ensuring effective implementation of the safeguards by each participating agency (including the lead agency and EIS providers) in the statewide system involved in the provision of early intervention services.
- (c) making available to parents an initial copy of the child's early intervention record, at no cost to parents.

### **DEFINITIONS OF CONSENT, NATIVE LANGUAGE, AND PERSONALLY IDENTIFIABLE INFORMATION** (34 CFR 303.401)

Definitions related to this section are found in Section I. A. above.

Louisiana's Procedural Safeguards include the following components:

- Parent Consent and Notice**
- Confidentiality**
- Surrogate Parents**
- Dispute Resolution**

### **PARENTAL CONSENT AND NOTICE**

#### **Parent Consent and Ability to Decline Services (303.420)**

#### **PARENT RIGHT TO DECLINE SERVICE (34 CFR 303.420)**

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 Part C early intervention services.

The lead agency ensures parental consent is obtained prior to:

- 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;
- (4) Public benefits or insurance or private insurance is used if such consent is required according to §303.520;
- (5) Disclosure of personally identifiable information consistent with §303.414.

If a parent does not give consent as specified above, 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.
- [\(3\) Understands that there are no costs associated with the use of a child's public benefits or insurance](#)
- [\(4\) Understands that the family may be subject to paying the full cost for services if consent is not given for use of public benefits or insurance.](#)

The lead agency will not use the due process hearing procedures under this part or IDEA-Part B to challenge a parent's refusal to provide any consent that is required

- (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.

Prior written notice and procedural safeguards notice 303.421

(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.

[Louisiana uses the \*Notice of Action\* form and the \*Family Rights Handbook\* to provide families with information about their rights and the State's actions/decisions regarding their child, including the System of Payments policies.](#)

**CONFIDENTIALITY AND OPPORTUNITY TO EXAMINE RECORDS** (34 CFR 303.401)

Louisiana ensures that families referred to EarlySteps 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.

**Confidentiality Procedures: 303.401(b)**

1. The lead agency, participating agencies, and EIS providers comply with Part C confidentiality procedures.
2. Parents of referred or eligible children are afforded the opportunity to examine/inspect/review early intervention records about the child and the child's family that are collected, maintained, or used under this part, including records relating to evaluations and assessments, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints dealing with the child, and any other area involving early intervention records about the child and the child's family. Agencies maintaining such records must allow parents access without unnecessary delay. Parents also have the right to request an explanation of the records or to request to amend the records if the parents believe information is inaccurate or misleading. Parents may request a copy of their child's record and may be charged a fee to cover the cost of photocopying, except as provided elsewhere.
3. Confidentiality procedures apply to information about the child and the family that are contained in early intervention records from the time of referral until any participating agency or provider is no longer required to maintain the information.
4. DHH discloses to the SEA and LEA where the child resides, the following [303.401\(d\)](#):
  - (i) child's name

- (ii) child's date of birth
- (iii) parent contact information ([including parents' names, addresses, and telephone numbers](#))

### **Notice to Parents Regarding Confidentiality of Information** 303.404

Following a referral to EarlySteps, the SPOE informs families about the confidentiality requirements of the early intervention system, including:

- (a) a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods used to gather information, the sources of the information gathered, and the uses 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
- (d) A description of the extent that the notice is provided in the native languages of the various population groups in the State.

### **ACCESS RIGHTS** (34 CFR 300.405)

The state of Louisiana requires that each participating agency permit parents to inspect and review records related to their child which are collected, maintained, and used by the agency under this part. The agency must comply with a parental request without unnecessary delay and before any meeting regarding an IFSP or hearing relating to the identification, evaluation, placement of the child, and in no case, more than 10 days after the request is made.

The right to review and inspect early intervention records 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 a participating agency provide copies of 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 records.

Agencies participating in Louisiana's early intervention services system may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under state law governing such matters as custody, guardianship, separation, and divorce.

#### RECORD OF ACCESS (34 CFR 300.406)

Each participating agency is required to keep a record of parties obtaining access to early intervention records which are collected, maintained or used under this part (except access by parents and authorized employees of the participating agency). The record includes:

1. name of the party requesting access;
2. the date of access; and,
3. purpose of for which the party is authorized to use the early intervention records

#### RECORDS ON MORE THAN ONE CHILD (34 CFR 300.407)

The state of Louisiana requires that if any 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 the specific information.

#### LIST OF TYPES AND LOCATIONS OF INFORMATION (34 CFR 300.408)

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

#### FEES FOR RECORDS (34 CFR 300.409)

Each participating agency may charge a fee for copies of records which 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. A fee may not be charged for the search for or retrieval of information. 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.

#### AMENDMENT OF RECORD AT PARENT'S REQUEST (34 CFR 300.410)

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

The participating agency shall decide whether to amend the information in accordance with the request within a reasonable time following receipt of the request. If the agency refuses to amend information in accordance with the request, it shall inform the parent of its refusal and advise the parent of their right to a hearing

#### OPPORTUNITY FOR A HEARING (34 CFR 303.411)

The participating agency shall, upon request, provide an opportunity for a hearing to challenge information in their child's early intervention records to insure 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 provided that such hearing procedures meet the requirements of the hearing procedures (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22). Louisiana has policies and procedures outlined in the Dispute Resolution section below which parents may use if disputes occur regarding the

confidentiality provisions of this section. (303.417)

#### RESULT OF HEARING( 34 CFR 303.412)

If, as a result of the hearing described above, the agency determines that the information is not inaccurate, misleading, or violates the privacy or other rights of the child or parent, the agency shall amend the information accordingly, and so inform the parent in writing.

If, as a result of the hearing, the agency determines that the information is not inaccurate, misleading or otherwise in violation of the privacy or the other rights of the child or parent, the agency shall inform the parent of their right to place in the early intervention records it maintains on the child, a statement commenting on the information or setting forth any reason for disagreeing with the decisions of the agency.

Any explanation placed in the records of the child must be maintained by the agency as long as the child's record or contested portion is maintained by the agency. This information must be disclosed if the record or contested portion of the record is disclosed to any party.

#### HEARING PROCEDURES (34 CFR 303.413)

Any hearing held under 34 CFR 300.411 is conducted under procedures in 34 CFR99.22 of Family Education Rights and Privacy Act (FERPA),

#### CONSENT PRIOR TO DISCLOSURE OR USE (34 CFR 303.414)

Prior parental consent must be obtained before any personally identifiable information is:

1. Disclosed to anyone other than authorized representatives, or employees of participating agencies collecting, maintaining or using the information under this part (; or,
2. Used for any purpose other than meeting any requirement under this part.

An agency may not release information from records to any party except participating agencies (including the lead agency and EIS providers) that are part of EarlySteps without parental consent unless authorized to do so

If a parent refuses to provide consent to disclosure of personally identifiable information, the lead agency, support coordinator, or EIS provider will explain to the parent through a meeting or call how their failure to consent affects the ability of their child to receive services, but will not override the parent's right to consent to decline services.

#### SAFEGUARDS (34 CFR 300.415)

Each participating agency is required to protect the confidentiality of personally identifiable information at the collection, maintenance, storage, disclosure, use, and destruction stages.

One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information. Persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under 34 CFR 300.401 through 303.417 and 34 CFR 99.

Each participating agency shall maintain, for public inspection, a current list of the names and positions of those employees within the agency who may have access to personally identifiable information.

#### **DESTRUCTION OF INFORMATION** (34 CFR 300.416)

Each participating agency shall inform parents when personally identifiable information which has been collected, maintained, or used under this part is no longer needed to provide services.

The information must be destroyed at the request of the parents. However, permanent records of a child's name, date of birth, parent contact information, address, and phone number, names of service coordinator(s) and EIS providers, and exit data (including year and age upon exit, and any programs entered into upon exiting) may be retained without time limitations.

In informing parents about their rights under this section, the agency should remind the parents that the child or the parents may need the records at a later date (i.e., for social security benefits or other purposes).

#### **SURROGATE PARENTS** (34 CFR 303.422)

The Louisiana Department of Health and Hospitals ensures that the rights of a child are protected when:

1. no parent 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 the State and has established the following for the appointment of surrogate parents:

##### 1) Identifying the need for appointment

Any person may advise a responsible public agency that an infant or toddler with a disability within its jurisdiction may be in need of a person to act as a surrogate parent. Notice shall be given to the system point of entry office .

##### 2) Process of Appointment

When the system point of entry (SPOE) responsible for providing Part C services to infants and toddlers with disabilities is informed of an infant or toddler with disabilities living within its jurisdiction, it shall, within ten (10) days, determine whether a surrogate parent should be appointed. A request for the appointment of a surrogate shall be made within ten (10) days to EarlySteps . Then, EarlySteps, shall, within ten (10) days, appoint a person to act as a surrogate parent. EarlySteps shall maintain a registry of trained surrogate parents from which they will select individuals for appointment. If a surrogate parent dies, resigns, or is removed, within 15 days thereof, a replacement will be appointed.

##### 3) Criteria for Appointment

EarlySteps shall appoint a person to act as a surrogate for the parent or guardian of an infant or toddler with a disability when:

- a) the child has no identified parent, guardian, or person acting as parent;

- b) the child has parents who, after reasonable efforts, cannot be located by a public agency; or,
- c) if the child is a ward of the state, instead of being appointed by the lead agency, the surrogate parent may be appointed by the judge overseeing the child's case provided the surrogate parent meets the requirements of a surrogate parent.

The following definitions will be used when determining child eligibility to receive a surrogate appointment:

- a. the term "parent" means a parent, a guardian, a person acting as parent of an infant or toddler, or a surrogate parent who has been appointed. The term does not include the State if the student is a ward of the State; and,
- b. the term "person acting as a parent of a child" refers to relatives of the child or private individuals allowed to act as parents of a child by the child's natural parents or guardians. For example, a grandparent, neighbor, governess, friend, or private individual caring for the child with the explicit or implicit approval of the child's natural parent or guardian would qualify as "a person acting as a parent of a child." If a child is represented by such a person, no surrogate parent is needed.

#### 4) Qualifications for Appointment

Any person who is appointed to act as an educational surrogate shall:

- 1) be at least 18 years of age;
- 2) not be an employee of any State 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;
- 3) be free from any personal or professional interest that may conflict with the interests of the child represented; and,
- 4) have knowledge and skills that ensure adequate representation of the child.

#### 5) Surrogate Training

All surrogate parents shall participate in a training session in which they will become familiar with the Louisiana Part C Surrogate Parent Program, acquire a basic understanding of the early intervention services provided through Part C in Louisiana, and develop the knowledge and skill necessary to adequately represent an infant or toddler. DHH shall provide the surrogate parent training.

#### 6) System Point of Entry Responsibilities

Specifically, each SPOE shall:

- A. designate a staff member who will be responsible for overseeing the surrogate parent program in their geographic area.
- B. complete and return to DHH a "Determination of Need for Surrogate Appointment" form for each child believed to be eligible for receiving a surrogate appointment;
- C. assist DHH in recruiting surrogate parent volunteers and submit their names and addresses to DHH;
- D. be available to assist DHH with local surrogate parent training; and,

E. complete and return to DHH a “ Surrogate Evaluation” form for each surrogate serving in the district.

#### 7) Responsibilities of the Surrogate Parent

An individual appointed to act as a surrogate parent may represent a child in all matters related to:

- a) The evaluation and assessment of the child,
- b) The development and implementation of the child’s IFSP, including annual and periodic reviews;
- c) The ongoing provision of early intervention services to the child; and
- d. Any rights as a parent as established under this part of the Act.

Additional duties include the obligation to attend surrogate parent training and to notify the system point of entry or DHH if any conflicts develop, or if he/she will no longer be able to fulfill their surrogate parent role.

#### 8) Immunity from Liability

The person appointed to act as a surrogate parent shall be immune from liability for any civil damage arising from any act or omission in representing the child in any decision related to the child’s early intervention. This immunity shall not apply to intentional conduct, wanton and willful conduct, or gross negligence.

#### 9) Reimbursement

The person appointed to act as a surrogate parent shall be reimbursed by the Department of Health and Hospitals for all reasonable and necessary expenses incurred as a result of his or her representation of an infant or child with a disability. Determination of “reasonable and necessary” expenses shall be made at the discretion of the Department and pursuant to Department of Administration guidelines. Such expenses do not include attorney fees or child care/babysitting expenses.

#### 10) Evaluation

DHH will send to each system point of entry an evaluation form to complete for each surrogate parent in which they will recommend the continuation or termination of the surrogate appointment. The system point of entry shall provide brief written discussions supporting a recommendation of termination and attach any existing documentation. Upon receipt of a recommendation of termination, the DHH will investigate and reach a decision on whether to terminate.

#### 11) Termination

The surrogate parent appointment shall be terminated at the request of the surrogate parent or in the event of any of the following situations:

- A. the conclusions of the initial educational evaluation and assessment indicate that the child does not qualify for receiving early intervention services;
- B. the child’s parent or guardian reappears to represent him or her, or wardship is terminated;

- C. the child is no longer in need of early intervention services;
- D. the child reaches the age of three and is no longer eligible for early intervention services;
- E. the surrogate parent fails to fulfill their responsibilities as defined by state and federal regulations.

## **DISPUTE RESOLUTION (303.430)**

### **RESOLUTION OF COMPLAINTS BY IMPARTIAL DECISION MAKER**

The state system includes written procedures for the timely administrative resolution of complaints through:

- (1) Mediation (303.431)
- (2) Due Process Hearing (303.435)
- (3) State Complaint Procedures (303.432)

#### (1) Mediation

Mediation is provided through the Louisiana Division of Administrative Law

##### To initiate mediation:

Upon receipt of a request for due process hearing, the parents will be offered the opportunity to mediate their dispute. Mediation is voluntary and parties must agree to mediation. Mediation will be provided at no cost to either party. Mediation will not be used to deny or delay a parent's right to a due process hearing or to deny or delay any other rights afforded under IDEA Part C

Mediators will be assigned to the case by the Division of Administrative Law. If the case was assigned to a law judge for a due process hearing, that administrative law judge will not conduct the mediation. Mediators selected are qualified and impartial.

- 1) Mediation must be scheduled within five (5) days of the selection of a mediator.
- 2) Mediation must be conducted at a time and place mutually agreed upon by the parties. The mediator may permit telephone appearances in lieu of a personal appearance for good cause and convenience of the parties.
- 3) Mediation must be completed within thirty days of the agreement to mediate.
- 4) Any agreement reached during the mediation must be in writing and delivered to each party.
- 5) Each party, representative, or attorney shall negotiate in good faith, and be prepared to obtain the authority necessary to settle and compromise the issue. The agreement will be signed by both the parent and a representative of the lead agency who has the authority to bind such an agreement.
- 6) Discussions held during a mediation session are confidential and cannot be used as evidence in a due process hearing or civil action held at a later date.

##### Mediator qualifications:

- 1) Mediators must be impartial and free of any conflict of interest.
- 2) Mediators shall not be employees of a public or private agency that is involved in the early intervention services for the child and/or family.

- 3) Mediators must have knowledge of laws and regulations relating to the provision of appropriate early intervention service to infants and toddlers with disabilities.
- 4) Mediators must have a minimum of 16 hours of training as a mediator.

Parties have the right to seek mediation of their disputes outside of the state mediation process and due process system. However, the DHH will only pay for mediation if the parties agree to it in connection with a due process request.

Effect on Due Process Hearing timelines: the process for assigning a hearing officer and scheduling a due process hearing will occur simultaneously with the mediation process. In the event that the due process hearing is scheduled for a date prior to the date of the completion of the mediation, one or both of the parties may request, and obtain, an extension of the due process hearing timeline from the hearing officer, allowing them to proceed with the mediation. Mediation shall not unduly delay the hearing schedule. The presiding administrative law judge may continue scheduled dates on motion of a party or on his own motion.

## (2) Due Process Hearings to Resolve Individual Child Complaints ( 303.435)

To initiate due process, a written statement of concerns must be submitted to the Part C Program Manager. Within thirty (30) days of receipt of this statement, a hearing will be held to review the concerns.

Resolution will involve the following:

1. An Administrative Hearing Officer assigned by the Division of Administrative Law will conduct the hearing. This individual shall be knowledgeable of early intervention services for infants and toddlers and shall not be an employee of any state agency or service provider responsible for providing early intervention services to the individual child.
2. A record of the proceedings will be maintained and cross-examination is permitted. Both parties will be able to examine records and present information pertaining to the recommended action through testimony or exhibits. The hearing will be held at a time and location convenient to the family.
3. The individual conducting the hearing will listen to presentations of the parties involved, examine relevant information and reach a resolution. All parties involved will receive a copy of this decision in writing.

The individual's decision will be mailed to the parties within thirty (30) calendar days after receipt of the request for a due process hearing.

DHH, after deleting any personally identifying information will transmit the findings and decision to the state Interagency Coordinating Council established under 34 CFR 300.650 and publish the decision on the DHH website, thus making the findings and decisions available to the public.

## APPOINTMENT OF AN IMPARTIAL PERSON (34 CFR 303. 435)

An impartial person must be appointed to implement the individual child complaint resolution process in this Subpart. The person must have knowledge about the provisions of Part C, of

complaint management requirements, and the needs of, and services available for eligible children and their families, and perform the following duties:

1. listen to the presentation of relevant view points about the complaint, examine all information relevant to the issues and seek to reach a timely resolution of the complaint,
2. provide a record of the proceedings, including a written decision.

As used in this section, impartial means that the person appointed to implement the complaint resolution process:

1. is not an employee of any agency or other entity involved in the provision of early intervention services or care of the child or child's family, and
2. does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.

A person who otherwise qualifies under this section is not an employee of an agency solely because the person is paid by the agency to implement the complaint resolution process.

#### PARENT RIGHTS IN ADMINISTRATIVE PROCEEDINGS (34 CFR 303. 436)

DHH ensures that the parents of children eligible under this part are afforded the rights in this section in any administrative proceedings carried out under 34 CFR 303. 430 (d)

These rights include:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children eligible under this part;
2. Present evidence, and confront, cross-examine, and compel the attendance of witnesses;
3. Prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five days before the proceeding;
4. Obtain a written or electronic verbatim transcription of the proceedings at no cost to the parent; and,
5. Receive written findings of fact and decisions at no cost to the parent.

#### CONVENIENCE OF PROCEEDINGS; TIMELINES (34 CFR 303.437)

Any due process hearing is

(a) carried out at a time and place that is reasonably convenient to the parents.

(b) DHH ensures that no later than 30 days after the receipt of a parent's complaint, the impartial proceeding required under this section is completed and a written decision mailed to each of the parties.

(c) A hearing officer may grant specific extensions of time beyond the period set out in (b) at the request of either party.

#### CIVIL ACTION (34 CFR 303. 438)

Any party aggrieved by the findings and decision regarding due process complaint has the right to bring a civil action in State or Federal court.

#### STATUS OF A CHILD DURING PROCEEDINGS (34 CFR 303.430 (e))

During the pendency of any proceeding involving a complaint under this section, unless the lead agency and parents of a child otherwise agree, the child must continue to receive the appropriate early intervention services currently being provided. If the complaint involves an application for initial services under this part, the child must receive those services that are not in dispute.

These policies and procedures meet the requirements in 34 CFR 300.560 through 300.576 with the following modifications:

1. Any reference to the state educational agency means the lead agency under this part;
2. Any reference to special education, related services, free appropriate public education, free public education, or education means the provision of early intervention services to children under this part and their families.
3. Any reference to participating agency when used in reference to a local educational agencies or intermediate educational units means local system points of entry, local service providers including service coordinators;
4. Any reference to 34 CFR 300.128 (Identification, Location and Evaluation of Children with Disabilities) means Regulations 303.164 and 303.321 (Comprehensive Child Find System) and;
5. Any reference to 34 CFR 300.129 (Confidentiality of Personally Identifiable Information) means this section (Confidentiality of Information).

#### ENFORCEMENT (34 CFR 300.417)

The Department of Health and Hospitals, assures that each participating agency receiving and/or eligible for funds from Federal sources will have in effect all such policies and procedures, as described herein. In the event that an agency fails to comply with the provisions of Part C of the Individuals with Disabilities Education Act, the Department of Health and Hospitals may initiate actions to withhold the payment of Federal Funds available to the agency or other sanctions

#### (3) State Complaint Procedures (303.432-303.434)

DHH-OCDD has adopted written procedures for receiving and resolving any written and signed complaint that any public agency or private service provider is violating a requirement of Part C.

#### INFORMING PARENTS AND OTHER INTERESTED INDIVIDUALS OF COMPLAINT PROCEDURES

Parents are specifically informed of the Louisiana Part C System Complaint Procedures. The Parent Rights Brochure is given and explained to parents upon referral to the program, at the point of notice and consent for evaluation (identification), and at the point of notice and consent for placement or provision of early intervention services. Service coordinators also review parent rights when conducting IFSP reviews and whenever parents have questions.

Parents and other interested individuals (including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities) are informed of the complaint procedures through a variety of public awareness activities, such as presentations, videos, and print materials. Information is also disseminated through advocacy councils, and the Louisiana Developmental Disabilities Council

## WHO MAY FILE A COMPLAINT

Any individual or organization, including an organization or individual from another state, may file a complaint with DHH-OCDD. Sources of written complaints may include parents, service providers, advocates, service coordinators, members of the SICC, and/or employees of public agencies.

## COMPLAINT PROCEDURES

Statement of Jurisdiction: DHH, as a grantee under Part C of the Individuals with Disabilities Education Act (IDEA) maintains procedures for receiving, investigating, and resolving complaints that statutes and/or regulations relating to Part C of IDEA have been violated. This process is administered through the Office for Citizens with Developmental Disabilities (OCDD).

Time Limitations: A complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the alleged violation is continuing, or compensatory services are applicable. (303.433(a))

Initiating a Complaint: A child complaint must be submitted in writing and signed and entered into the OCDD complaint data system. The complaint must include (303.433-303.434):

1. Stated facts describing an alleged violation of Part C or federal statutes and regulations applying to programs operated pursuant to IDEA, Part C.
2. State the name, address, and phone number of the complainant as well as applicable information regarding the child involved. Individuals filing a complaint are not required to cite the Part C regulation that he or she alleges has been violated.
3. The name of the EIS provider serving the child and a description of the nature of the problem of the child, including the facts relating to the problem; and a proposed resolution of the problem.
4. The complainant will have the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint. If the information is submitted orally, the lead agency will reduce the information to a written format and the person authorized to handle the complaint will sign the complaint if the complainant so requests.
5. The complainant 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, or the lead agency may forward a copy of the complaint with the complainant's name withheld on behalf of the complainant at their request.

Processing of Complaint Record: Upon receipt, the complaint shall be reviewed by the OCDD Complaint Coordinator and necessary staff assigned to investigate it. The complaint shall also be entered into the complaint tracking system. The complainant will give the lead agency an opportunity to respond to the complaint, including, at a minimum, a proposal to resolve the complaint and an opportunity to voluntarily engage in mediation.

Investigation of the Complaint: The process of investigation shall include: assignment of the complaint to staff, providing notice of the complaint, data collection, and on-site visits where appropriate.

1. Notice: Upon receipt of a complaint, notice shall be sent to the agency against which the complaint is filed either by the person filing the complaint or by the lead agency. The notice shall include a statement of the elements of the complaint, a description of the investigation process and (if possible) the details of any on-site visits, data requests, or telephone interviews that are planned. The agency shall be invited to provide any relevant information.

2. Acknowledgement: Upon receipt of a complaint, a written acknowledgement shall be sent to the complainant and shall include a statement of the elements of the complaint, a description of the investigation process, and an invitation to provide any relevant information that the complainant would like considered. The lead agency will review all relevant information and determine whether the lead agency, public agency, or EIS provider is violating a requirement of IDEA, Part C.

3. Documentation Collection: Documentation requests and telephone interviews will be the primary methods of data collection in the complaint investigation. The request will include documents relevant to the complaint. Additionally, persons who have filed the complaint are given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

4. On-site visits: If the lead agency determines that the investigation requires an on-site visit, notice to the agency/provider shall also be given. This notice may be given by phone, or may be in writing. The notice shall include a statement of the records to be made available, staff to be interviewed, and any need for access to school or agency facilities.

Investigation Time Lines: The Part C office shall have, upon receipt of the complaint, sixty (60) calendar days to review all relevant information and issue a letter of findings regarding the final decision. The complaint coordinator, , may grant extension of this time limit if:

1. if exceptional circumstances exist with respect to the particular complaint.
2. the parent ( or individual or organization) and the lead agency, public agency or EIS provider involved agree to extend the time to engage in mediation.

If such an extension is given, notice shall be provided to the complainant and the agency under investigation, with documentation of that notice to be maintained within the child complaint file.

Resolution of the Complaint: Resolution of a system complaint shall be through the issuance of a written decision letter of findings by the authorized employee so designated in each OCDD Regional Office, Human Services District/Authority and in the OCDD Central Office. The Decision letter shall include findings of fact and conclusions, and provide reasons for the decision. These findings shall address each allegation in the complaint and a review of the investigation results, including any information in an on-site investigation or from a data request. DHH has developed procedures for the effective implementation of the final decision, if needed,

that include technical assistance activities, negotiations, and corrective actions to achieve compliance.

The basis for resolution may be any one of the following:

- A. A decision that the party is in compliance.
- B. A decision that the party is out of compliance, but that voluntary corrective action has been taken requiring no further corrective action.
- C. A decision that the party is out of compliance and ordering a specific corrective action to be completed by a certain date.

#### RELATIONSHIP BETWEEN COMPLAINTS FILED UNDER THIS SECTION AND DUE PROCESS (303.433 (c))

If a written complaint is received that is also the subject of a due process hearing under Section 303.430 (d) above, or contains multiple issues, of which one or more are part of that hearing, DHH 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 part of the due process action must be resolved within the sixty (60) calendar-day timeline using the complaint procedures described in this section.

If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding on that issue. The complainant is informed of this.

A complaint alleging a lead agency, public agency or EIS provider's failure to implement a due process decision must be resolved by the lead agency.

**REMEDIES FOR DENIAL OF APPROPRIATE SERVICES:** In resolving a complaint in which it finds a failure to provide appropriate services, a lead agency (pursuant to its general supervisory authority under Part C of the Act) must address how to remediate the denial of those services, including as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family and appropriate future provision of services for all infants and toddlers with disabilities and their families.

**Appeal Rights:** The findings of the Secretary related to the complaint shall constitute a final decision of DHH. This is communicated to the complainant.

## **XI. SUPERVISION AND MONITORING OF PROGRAMS AND ENFORCEMENT (34 CFR 303.700)**

The Department of Health and Hospitals (DHH) is responsible for the general administration, supervision and monitoring of programs receiving assistance under Part C to ensure compliance with Part C regulations.

DHH is also responsible for the monitoring of programs and activities used by the state to execute this part (whether or not programs or activities are receiving assistance under Part C to ensure compliance with Part C. The DHH fulfills this obligation through the following methods:

1. monitoring of agencies, institutions and organizations used by the State to carry out Part C;
2. enforcement of any obligations imposed on those agencies under Part C;
3. providing technical assistance, if necessary, to those agencies, institutions and organizations;
- and,
4. correction of deficiencies that are identified through monitoring (through a corrective action plan process).
5. and withholding of or recouping funds, in whole or in part
6. terminating provider enrollment agreements or contracts according to the provisions specified in those documents.

Monitoring activities include data collection and review, analysis and reporting, and periodic on-site reviews. Onsite reviews occur as needed to address complaints and/or problems identified.

The Department of Health and Hospitals issues findings of noncompliance through written correspondence to the agencies. Agencies provide written corrective action plans to comply with Part C. Agencies may request technical assistance to aid in implementing policies and/or procedures to achieve compliance. Following completion of the corrective action plan, follow up monitoring is conducted to ensure that the specific requirement is being met. Based on the result of the follow up, the status of the findings will be issued to the agency. Louisiana intends that each finding is corrected as soon as possible and in no case later than one year after the identification is issued.

## **XII. POLICIES AND PROCEDURES RELATED TO FINANCIAL MATTERS**

This section addresses the lead agency's system of policies and procedures for

- (1) Use of Funds (303.501)
- (2) Payor of last resort provisions (303. 510-521)
- (3) the System of Payments (303.520-521)

### (1) Use of Funds (303.501)

The lead agency uses IDEA, Part C funds for direct early intervention services for infants and toddlers with disabilities and their families that are not otherwise funded through other public or

private sources and to expand and improve services for infants and toddlers with disabilities and their families that are otherwise available.

## (2) Payor of Last Resort (303.510)

(a) Nonsubstitution of funds. Except as provided in paragraph (b) below, funds under IDEA, Part C will 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. 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; and,
- although Louisiana does not use Part C funds to pay for costs such as premiums, deductibles, or co-pays, it does not prohibit the use of Federal Part C funds to pay for these if such payment is needed for the timely provision of services

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.

## (3) POLICIES RELATED TO PAYMENT FOR SERVICE (34 CFR 303.520)

The Louisiana Department of Health and Hospitals is responsible for policies related to payment of Early Intervention Services for eligible children as required. Under its 2007 State Application, the State submitted a system of payments for Part C services that includes the use of public benefits or public insurance (Medicaid), private insurance, or family fees, using the Cost Participation Sliding Scale Schedule, according to the following:

- Families participate in helping to cover the costs of services by making payments to EarlySteps according to a sliding payment scale according to their income and family size and,
- by authorizing EarlySteps to bill their private health insurance company,
- by authorizing EarlySteps to use their public insurance (Medicaid) as payment for early intervention services.

The state of Louisiana assures that fees are not charged to parents for the services that a child is otherwise entitled to receive at no cost. Further, the state assures that the inability of parents of an eligible child to pay for services does not result in denial of services to the child or the child's family. The State will provide written notification to the child's parents and obtain parental consent for the use of public benefits (Medicaid) or private insurance. If the parent does not provide consent the lead agency will still make available those Part C services for which the parent has provided consent.

These policies are consistent with the system of payment policies as outlined in 34 CFR 303.520.

The following ~~functions~~ services are provided at no cost to parents:

1. child find activities;
2. evaluation and assessment for eligibility and IFSP planning purposes;
3. service coordination;
4. administrative and coordinative activities related to the development, review, and evaluation of IFSPs;
5. implementation of procedural safeguards and other components of the statewide system related to Subpart D of the regulations.

Upon initial determination of eligibility and annually thereafter, the intake/service coordinator discusses the cost participation requirements with the family. The service coordinator reviews the required documents that the family must submit for income verification (including tax information, paystubs, W-2 forms, etc.). The family can also produce any extraordinary expenses associated with the child and/or other family members for further consideration of their ability to pay for services. These expenses may include unreimbursed medical expenses, equipment, home modifications, etc. The rate schedule is reviewed with the family to discuss examples of potential costs to the family. The income and expenses information is submitted to the Central Finance Office for calculation of family fees, if applicable. For decisions regarding a family's potential inability to pay, the CFO will alert the Lead Agency and a decision will be rendered through a review by a regional team of the family's payment requirement, payment adjustment, extraordinary expenses or waiver of payment and other submitted information.

### **Cost Participation:**

When the cost participation process is explained to Ffamilies have the following options for payment of early intervention services. Families are informed of these options and must choose an option:they are informed that one or more of the following may be applicable to the family regarding their choice for paying for early intervention services:

- 1). Pay full cost of early intervention services,
- 2). Access the Pay for services according to the Cost Participation Schedule,

- 3) Apply for Medicaid or LaChip if not already enrolled and the family provides consent to the application,
- 4) Provide written consent to use of Medicaid for payment of early intervention services covered by Medicaid and/or,
- 5) Provides written consent to use private insurance for early intervention services covered by their insurance policy.

### **Use of Public Benefits or Medicaid:**

Families of children enrolled in Medicaid/LAChip will not have any cost share for early intervention services when consent is given to use Medicaid to pay for early intervention services. Consent is obtained prior to using Medicaid as a payor for early intervention services on the IFSP.

Families that choose not to release financial information or allow use of their child's Medicaid will be assessed the full cost for each of the early intervention services listed on the IFSP for which consent is given.—The full cost of each service is determined by the Lead Agency according to the rate schedule and is based on the amount paid to providers. A copy of the current service rate schedule follows this section.

Families are not required to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services. EarlySteps services are part of the Medicaid EPSDT program and the State has made the decision not to assess third party liability for families<sup>2</sup> whose children are Medicaid eligible and are also covered by private insurance. Therefore, families are informed that there are no costs incurred by the family in the use of Medicaid as payment for early intervention services. Parents will incur no costs for co-payments, deductibles or premiums as a result of using Medicaid to pay for the child's early intervention services and Medicaid will not be billed for early intervention services if a family has not provided consent to do so.:

### **Written, prior notification to Families for use of public benefits or private insurance:**

The notification includes:

(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, although this provision does not apply in Louisiana; and

(iv) A statement ~~of the general categories of that families will incur no costs that the parent would incur~~ as a result allowing the use of their child's Medicaid for early intervention services of participating in a public benefits or insurance program or that families may incur costs (such as co-payments or deductibles) when private insurance is used, or the required use of private insurance as the primary insurance).

(v) A statement of the process for resolution of disputes regarding decisions related to use of public benefits and/or private insurance. The policies for the dispute resolution system are described in Section X above. The notice is provided to families each time consent is required.

The Family Rights Handbook is provided to families during the initial intake process and each time notice and consent are required thereafter. Information in the Handbook related to the system of payments includes:

- the potential costs to the family for IFSP services,
- the use of private insurance or Medicaid,
- the availability of mediation, the ability to request a due process hearing, and the process for filing a complaint.

The family shall be liable for the participation in the cost of service that their child receives while enrolled in EarlySteps. The aggregate contributions made by the parent shall not exceed the aggregate cost of the early intervention services received by the child and family (factoring in any amount received from other sources for payment for that service). Families who have the ability to pay and choose not to pay may be determined by the Lead Agency as ineligible to continue to receive services until payment is made.

At least annually, or at any time the lead agency determines that a reassessment of the parent's financial circumstances is warranted, the lead agency shall conduct such reassessment of financial status.

The family has the right to request a reassessment at any time if there are significant changes affecting the determination of the cost participation amount. Such request shall be in writing and submitted to the service coordinator.

Inability to Pay is defined as income less than 300% of the Federal Poverty Level as calculated using the FPL schedule and family size. In addition, families may request in writing an exemption of liability for fees if there are extenuating circumstances that would impose a significant financial hardship upon the family. Documentation supporting their request is submitted by the intake/service coordinator to the CFO and submitted to Exemptions may be requested through the EarlySteps Central Office. The CFO sends an alert to the Central Office for a determination to be made regarding the family's ability to pay status. The family and the intake/service coordinator then receive the response. The response by the lead agency may result in a determination that a family has an inability to pay for early intervention services which are subject to cost.

Families must agree to inform their service coordinator of any changes in their financial status throughout enrollment in services unless they have chosen to pay full cost for all services.

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.

Ability of a family to pay is regarded as an income of greater than 300% of FPL using the established cost participation schedule.

### **Use of Private Insurance:**

Families may choose to use private insurance for payment of early intervention services for insurance-covered services; ~~however~~ families will also be assessed the ~~participation fee costs~~ for early intervention services not covered by private insurance according to the Cost Participation Schedule and the Service Rate Schedule ~~and will be credited for insurance-covered and reimbursed services.~~ Private insurance may be accessed to reimburse for services for which ~~fees are charged costs are assessed,~~ with parental consent. Consent is obtained each time consent for services ~~is~~ required in accordance with 303.420 including when using private insurance or benefits to pay for the initial provision of early intervention services and/or due to when an increase is proposed (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

Louisiana provides a copy of its system of payments when obtaining parent consent. The policy is included in the Family Rights Handbook and includes 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).

~~Private insurance cannot be billed~~ The lead agency will not bill private insurance for services that are provided at no cost to families, ~~unless private insurance policies do not exclude coverage of services that have no consumer liability.~~

Families are responsible for the costs associated with any early intervention service not covered by the private insurance policy or not reimbursed by the insurance policy, except as above, according to the cost participation and service rate schedules. Families are responsible for all deductibles, co-pays, and premiums or other fees required by their own insurance plan.

Families have the right to deny use of private insurance coverage if a financial loss such as a decrease in available lifetime coverage or discontinuation of policy may occur. Families must provide evidence that using the insurance policy to support early intervention services will result in such a financial loss of the policy (e.g., a decrease in available lifetime coverage or discontinuation of the policy). If families provide this evidence to the Lead Agency, then they

may be allowed to access the cost participation sliding payment scale instead of paying the full cost of services.

### Inability to Pay

If a parent or family is determined unable to pay under the State's definition and does not provide consent, the lack of consent will not be used to delay or deny any services to the child or family.

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;

## IDENTIFICATION AND COORDINATION OF RESOURCES

DHH is responsible for the identification and coordination of all available resources for early intervention services within the state, including those from Federal, state, local and private sources and updating the information regarding funding sources in the event that a legislative or policy change occurs.

The Federal funding sources available for the Part C program include:

1. Title V of the Social Security Act (relating to Maternal and Child Health);
2. Title XIX of the Social Security Act (relating to the General Medicaid Program and EPSDT);
3. The Head Start Act;
4. Part C of the IDEA;
5. Subpart 2 of Part D of Chapter 1 of Title 1 of the Health and Hospitals Education Act of 1965 as amended;
6. The Developmentally Disabled Assistance and Bill of Rights Act, (PL 94-103); and,
7. other federal programs, including but not limited to Title XXI, LaChip, Temporary Assistance to Needy Families (TANF), Title IV, the Child Care Development Fund, Early Head Start, etc.

The following represents state and local funding sources for the Part C system in Louisiana:

1. general revenue funds;
2. private insurance with written parental consent unless Title XIX or V eligible;
3. private agency support; and,
4. local foundations.

### **Enrollment in Medicaid and Use of Part C Funds**

Federal regulations for Part C of the Individuals with Disabilities Education Act stipulate that Part C funds are to be used only for early intervention services that an eligible child needs but is not currently entitled to under any other Federal, state, local, or private source.

Medicaid funds are a source of payment for early intervention services when appropriate for children dually enrolled in Medicaid and Part C. All service coordinators (intake and/or family)

are required to inform families that they believe to be potentially Medicaid-eligible of the benefits of the Medicaid program and urge their participation. Medicaid eligible families will not be required that do not to enroll with Medicaid ~~must be told that Part C funds cannot be used to cover early intervention services that Medicaid would otherwise cover~~. A family determined to be potentially eligible for Medicaid/LAChip who chooses not to apply for Medicaid/LAChip will then be ~~responsible for the full cost of the services assessed full costs~~ for services for which consent is provided according to the Service Rate Schedule.

### **Enrollment in Title V and Use of Part C Funds**

Federal regulations for Part C of the Individuals with Disabilities Education Act stipulate that funds under this part are to be used only for early intervention services that an eligible child needs but is not currently entitled to under any other Federal, state, or private source.

Title V funds are a required source of payment for early intervention services when appropriate for children dually enrolled in Title V and Part C. All service coordinators (intake and/or family) are required to inform families that they believe are potentially Title V-eligible of the benefits of the Title V program and ~~urge their participation~~ assist families in referring to the program. Title V-eligible families ~~that do not enroll with Title V~~ must be told that Part C funds are not cannot be used to cover early intervention services that Title V would otherwise cover, however, families are not required to enroll in Title V programs as a condition of receiving Part C services.

### Proceeds From Public Insurance or benefits or Private Insurance

DHH assures that proceeds from public insurance or benefits or private insurance are not treated as program income for purposes of 34 CFR 80.25. Further, if a public agency receives reimbursements from Federal funds (such as Medicaid) for services under this part of the Act, those funds are not considered state or local funds for purposes of the provisions contained in Section 303.225(b). If the State spends funds from private insurance for early intervention services, those funds are considered neither State no local funds.

Funds received from a parent or family member under the System of Payments (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).

### **Family Notice of Cost Participation**

Families are fully informed and are provided notice of the following:

- a) the contribution for each service and which services are provided at no cost;

- b) the availability of a cost participation schedule based on income and ~~fee appeal~~ the process to reduce the contribution if the charges create a barrier to services or financial hardship;
- c) proof of ~~taxable~~ family income is required to access the cost participation schedule and proof of gross income and expenses are required to ~~access the fee appeal~~ process for consideration of extenuating circumstances and/or extraordinary expenses affecting the family's ability to pay for early intervention services;
- d) their right to refuse to provide proof of income, however, the full cost of services will be charged according to the rate schedule;
- e) the availability of all procedures to resolve disagreements regarding assessed costs and use of public or private insurance should they occur in accordance with Part C requirements;
- f) the inability of parents to pay for services will not result in a delay or denial of services. If the family meets the State's definition of inability to pay, all early intervention services will be provided at no cost.
- g) their right to provide (or not provide) consent to use private insurance to cover services. However, the family will be assessed according to the cost participation schedule ~~and will be credited for insurance covered services~~; and
- h) their right to have all financial information maintained in accordance with federal and state requirements for confidentiality.

#### **COORDINATION WITH HEAD START, EARLY HEAD START, EARLY EDUCATION, AND CHILD CARE PROGRAMS (303.210)**

(a) occurs through the following:

- (1) interagency agreements at the state, regional and local level for coordination of activities
- (2) participation of representatives on the SICC and regional ICC's and other joint planning and implementation activities
- (3) outreach to local and regional Head Start, Early Head Start contractors and child care programs
- (4) referral procedures to Part C and from Part C for identified, eligible children and to facilitate successful transition at age 3 year.
- (5) training to support inclusion of children with disabilities in all early education settings including participation on the Special Quest state leadership team and other similar activities.

(b) Participation of the Lead Agency on Bright Start, Louisiana's Early Childhood Advisory Council.

- (1) The Part C Coordinator is an appointed member to Bright Start
- (2) Other central and regional office Part C staff and contractors participate in Bright Start workgroups addressing all aspects of the early childhood education system in Louisiana.

#### **DELIVERY OF SERVICES IN A TIMELY MANNER (34 CFR 303. 511(d))**

DHH has developed the following procedures to ensure services are provided in a timely manner pending resolution of disputes among public agencies or service providers so that no services that a child is entitled to receive are delayed or denied due to inter- and/or intra-agency disputes.

Pending resolution of a dispute, DHH will utilize Part C funds to directly pay for services. DHH will conduct a review with parties involved. The assignment of financial responsibility will be reviewed by an interagency panel consisting of appropriate staff members designated by the appropriate director(s) of the state agencies.

The panel will provide a recommendation of their decision to the Secretary of the Department of Health and Hospitals and appropriate Department directors who will render a decision. This decision will reassign the fiscal responsibility to the appropriate agency and make arrangements to reimburse expenditures incurred by DHH. In the event the decision is not satisfactory, the parties involved shall refer the dispute to the Governor. Services will continue to be provided during the resolution of the dispute.

#### REIMBURSEMENT PROCEDURES

A central finance office will administer payment for all early intervention services. The central finance office will also seek reimbursement from the appropriate funding sources such as Medicaid.

### **XIII. INTERAGENCY AGREEMENTS; RESOLUTION OF INDIVIDUAL DISPUTES (303.511)**

The lead agency has in place formal interagency agreements with other agencies to assist in the implementation of the Part C system include the following:

1. the financial responsibility of each agency for paying for early intervention services that is consistent with state law and Part C requirements;
2. the procedures for achieving a timely resolution of intra- and interagency disputes about payments for a given service(s) or other aspects of the state's early intervention program. The procedures include a mechanism for making a final determination that is binding upon the agencies involved;
3. the process that permits each state agency participating in the State's early intervention program to resolve any internal disputes so long as the agency does so in a timely manner. Should an agency be unable to resolve its own internal dispute in a timely manner through their own agency's dispute resolution procedures, DHH will follow the procedures identified in the section below to achieve resolution of intra-agency disputes; and,
4. any additional components necessary to ensure effective cooperation and coordination among all agencies involved in the State's early intervention program

#### RESOLUTION OF DISPUTES (34 CFR 303.511)

DHH is responsible for resolving interagency and intra-agency disputes During the pendency of a dispute, DHH is responsible for assigning financial responsibility to an agency or to itself as lead agency, in accordance with the payor of last resort provision.. If during the resolution of the dispute, the financial designee determines that the assignment of financial responsibility was inappropriately made, the financial designee shall reassign the responsibility to the appropriate

agency and DHH shall make arrangements for reimbursement of any expenditure incurred by the agency originally assigned responsibility.

The dispute will be reviewed by an interagency panel consisting of appropriate staff members designated by the appropriate Director(s) of the state agencies and the Secretary of the Department of Health and Hospitals who will together render a decision. In the event the decision is not satisfactory, the parties involved may refer the dispute to the Governor.

#### **XIV. POLICY FOR CONTRACTING OR OTHERWISE ARRANGING FOR SERVICES (34 CFR 303.121)**

DHH has established policies for contracting or making other arrangements with public or private service providers to provide early intervention services. Agencies and individuals who meet the state standards described in this application will enroll with a Central Finance Office and with the Medicaid Fiscal Intermediary when appropriate. The Central Finance Office and Medicaid Fiscal Intermediary contract with DHH to implement a provider enrollment and claims processing system that is electronically connected to a payment system for processing and paying claims. Providers sign enrollment agreements with the respective contractors.

#### **XV. NATURAL ENVIRONMENTS (303.126)**

The State of Louisiana assures that, to the maximum extent appropriate, early intervention services are provided in the natural environments; and the provision of early intervention services for any infant or toddler occurs in a setting other than environment only when the early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

## Family Cost Participation Table

### 2013 Federal Poverty Level-Annual Income Schedule

Family Size	300%	350%	400%	450%	500%
1	\$34,488	\$40,236	\$45,984	\$51,752	\$57,480
2	\$46,548	54,306	62,064	69,822	77,580
3	\$58,608	68,376	78,144	87,912	97,680
4	\$70,668	82,446	94,224	106,002	117,780
5	\$82,728	96,516	110,304	124,092	137,880
6	\$94,788	110,586	126,384	142,182	157,980
7	\$106,848	124,656	142,464	160,272	178,080
8	\$118,908	138,726	158,544	178,362	198,180
9	\$130,968	152,796	174,624	196,452	218,280
10	\$143,028	166,866	190,704	214,542	238,380
<b>For each additional person add</b>	\$12,060	\$14,070	\$16,080	\$18,090	\$20,100
Per Hour	\$18	\$21	\$23	\$27	\$30
Maximum Monthly	\$176	\$206	\$235	\$265	\$294
<b>Sample: Average monthly cost to families</b>	\$72	\$84	\$92	\$108	\$120

**Explanation:**

1. The monthly maximum contribution (shown in yellow near the bottom of the schedule) is based on 3% of the annual income of a family of 4 across all of the income groups. The hourly service rate is calculated as 10% of the maximum monthly cap. This formula can be applied to families above the 500% income level to calculate their hourly rate and maximum cost using the FPL schedule.
2. This calculation will be used annually when the FPL schedule is updated.
3. For eligible children covered by Medicaid, the family will not contribute to the cost of any services.
4. The following services be provided at no cost to all families: Child Find and Referral, Evaluation and Assessment, IFSP Development, Service Coordination, and Procedural Safeguards (Parents' Rights).

EarlySteps [Service](#) Rate Schedule

Louisiana Part C System

Billing Category	Center-based	Special Purpose Facility	Natural Environment
	Special Purpose Facility	With Inclusive Child Care	Home and Community
<b>Group 1</b> OT,PT,SLP, Audiology RN, Psychology	<b>\$51/hour</b> <b>Or \$12.75/15' unit</b>	<b>\$54/hour</b> <b>Or \$13.50/15' unit</b>	<b>\$82.35/hour</b> <b>Or \$20.59/15' unit</b>
<b>Group 2</b> Special Instruction RD, LPN, MSW	<b>\$33/hour</b> <b>or</b>	<b>\$36/hour</b> <b>or</b>	<b>\$59.80/hour</b> <b>Or \$14.95/15' unit</b>

## INTERAGENCY AGREEMENT

between

The DEPARTMENT OF HEALTH AND HOSPITALS,  
OFFICE FOR CITIZEN'S WITH DEVELOPMENTAL DISABILITIES

and

THE DEPARTMENT OF EDUCATION

### **Purpose of Agreement:**

The purpose of this interagency agreement is to establish and confirm the agreed upon obligations, responsibilities and timelines essential to ensure a coordinated system of early intervention services as required by Part C of the Individuals with Disabilities Education Act. This interagency agreement has been developed by recognized and authorized department representatives and represents the mutual assignment of responsibility and agreement for the state of Louisiana in order to comply with the Federal and State regulations for the administration and operation of the Louisiana Part C system.

### **Goals and Objectives:**

The shared outcomes of this interagency agreement are to:

- g. Ensure that potentially eligible children, ages birth through two, are identified in a timely manner for the state's Part C system and that 3-year olds are identified for the state's Part B system;
- h. Ensure that the Individualized Family Service Plans (IFSPs) for eligible children and their families are developed in a timely manner and that children transitioning to Part B have an IEP in place by their 3<sup>rd</sup> birthday;
- i. Ensure that all stakeholders have timely, accurate and meaningful information regarding the Part C system in general;
- j. Ensure that there is continued communication between the Louisiana Department of Education (DOE) and the Louisiana Department of Health and

Hospitals (DHH-OCDD) (also referred to as the Lead Agency for Part C) and that all communications reflect this interagency agreement;

- k. Ensure that all appropriate and available resources are identified and utilized in the planning and implementation of the Part C system in Louisiana and delivery of Part C services; and,
- l. Ensure that there is a mechanism for the swift identification and resolution of problems and issues between the two agencies.

## **Required Components:**

### I. Financial Responsibility

DHH/OCDD is responsible for identifying and coordinating all available resources for Part C including federal, state, public and private sources. Part C funds may not be used where other resources pay or otherwise provide for services (non-substituting or supplanting). Existing resources under Titles V and XIX may not reduce their coverage of services or benefits because of Part C. The lead agency must ensure that the total amount of state and local funds budgeted for expenditures in Part C are at least equal to the amount previously expended in the most recent preceding year (maintenance of effort).

#### Agreement:

DHH/OCDD will support the continued participation of the Local Education Agencies (LEAs) through the general systems financing design.

DHH/OCDD and DOE will work jointly to meet federal requirements related to state, local and other funds directed towards the current Part C system in order to ensure the maintenance of effort requirements.

Local Education Agencies and their personnel may, at their discretion, enroll with the DHH/OCDD as providers of early intervention services as defined by DHH/OCDD. LEAs and their personnel electing to enroll with DHH/OCDD must adhere to Part C regulations. LEAs who choose to participate in the Part C system must enroll staff with the Part C Central Finance Office and Louisiana Medicaid, if appropriate.

Local Education Agencies may, at their discretion, provide Special Instruction through the existing financial supports available to schools (Minimum Foundation Program funds).

## II. Procedures for Resolving Disputes

When a formal dispute arises between DHH/OCDD and the DOE regarding the terms of this Agreement, the party seeking clarification shall utilize the following procedures for resolution:

### A. Resolution of a dispute:

1. The issue will be referred to the respective division administrators or their designees for resolution.
2. If the issue is still unresolved, it will be referred to the highest level within each agency for resolution.
3. The resolution process shall occur within 60 days. If acted upon in good faith, with just cause and through mutual agreement, an extension may be granted not to exceed 30 calendar days.

During the pendency of any dispute in which early intervention services are in question, services to a child will not be delayed or denied and DHH/OCDD will pay for or provide the early intervention services. However, if DOE is found to be responsible for the payment of early intervention services, DOE will reimburse DHH/OCDD for the services provided during the time period of the dispute.

### B.. An Unresolved Dispute

If the highest level within each agency does not resolve the dispute, the issue shall be referred to the Governor or his or her designee.

After following this procedure, both agencies may utilize any other legal means available to resolve the dispute. This dispute resolution process shall not infringe upon the parties' state and federal statutory obligations. Nor shall either party be required by this agreement to act in any manner prohibited by federal or state law or

regulation.

### III. Additional Components to Ensure Effective Cooperation and Coordination

#### A. Child Find/Public Awareness:

DHH/OCDD has the responsibility to locate, identify, and evaluate all Part C eligible children. The DOE has the responsibility to locate and identify all children with disabilities, birth through 21, under the provisions of Part B of the Individuals with Disabilities Education Act. The DOE ensures evaluations for children with disabilities ages three through 21. DHH/OCDD will inform parents of toddlers with disabilities of the availability of services under section 619 of IDEA not fewer than 90 days prior to the toddler's third birthday.

#### LEA Responsibilities:

The DOE will direct LEAs to refer all children suspected to be eligible for Part C to the appropriate system point of entry as defined by the DHH/OCDD.

The DOE will encourage LEAs, as part of their child find efforts, to disseminate Part C brochures and other public awareness materials to their constituents.

DHH/OCDD and DOE will jointly share public awareness materials for their respective programs.

#### B. Comprehensive System of Personnel Development (CSPD)

A comprehensive system of personnel development (CSPD) is required by Part C to ensure that all Part C personnel and families are appropriately trained in their responsibilities for the Part C system. CSPD includes professional development for

individuals currently recognized as Part C providers, and technical assistance to ensure continuous compliance with Federal and State regulations, policies and procedures.

The DHH/OCDD will provide specific and targeted training to all current and potential Part C providers as required by Part C. This training will be open to early intervention teachers, therapists, diagnosticians, and other qualified staff employed by local schools as well as regional early childhood coordinators.

DHH/OCDD & DOE will collaborate in the development and implementation of training that would be beneficial for all early intervention service providers, including providers in early childhood programs in the LEA. Both agencies will designate a staff person who will collaborate on training initiatives. Efforts will be made to avoid any duplication of training.

DOE will continue to credential early interventionists as recognized in Bulletin 746, ***Louisiana Standards for State Certification of School Personnel***, of the Department of Education through the process established by the department.

#### **IV. Procedures for Sharing Data**

A. The DHH/OCDD is responsible for ensuring the timely and comprehensive collection of information related to individual child services, personnel and other information as required by the US DOE/OSEP.

The DHH/OCDD will collect information at the central office level to share with the DOE regarding the referral activities, including the number and location of referrals and referral source. Local Education Agencies and their personnel, who elect to provide Part C services, must provide required data as negotiated with DHH.

The DHH/OCDD and DOE will identify data reports to be provided to the US DOE/OSEP on a regular basis that will assist in financial forecasting and program planning for preschool services and meeting Federal reporting requirements.

B. Shared Evaluations

OCDD and LEA staff will share evaluation reports for evaluation activities conducted jointly as part of pilot or joint evaluation procedures conducted for eligibility determination.

### C. Transition at Age 3

DHH/OCDD and the DOE agree that to facilitate a smooth transition for children at age three, any child who is eligible for Part C services will be considered potentially eligible for Part B preschool services. DHH/OCDD will ensure that:

- the DOE and the appropriate LEA are notified of children transitioning from the system nine months prior to the child's third birthday, or earlier if the school district provides free, appropriate public education (FAPE) prior to age three. The notification is provided through a data exchange from DHH/OCDD to the DOE. The DOE will disaggregate the data and send to the appropriate LEA. The data submitted to DOE includes the child's name, date of birth, parent contact information including names, addresses and telephone numbers.
- If a child is referred to DHH/OCDD forty-six (46) to ninety (90) calendar days prior to the child's third birthday, DHH/OCDD will notify the DOE and LEA of the child find information and date of the transition meeting as soon as possible to allow the LEA to begin the evaluation process. Notification occurs through a data exchange from DHH/OCDD to the DOE and through a notice letter sent to the appropriate LEA.
- If a child is referred to DHH/OCDD forty-five (45) or fewer days prior to the child's third birthday, DHH/OCDD, with parent consent, will refer the child to the DOE and the LEA as soon as possible. Notification occurs through a data exchange from DHH/OCDD to the DOE and through a notice letter sent to the appropriate LEA. If the parent does not give consent, DHH/OCDD will provide the parent with the contact information for the appropriate LEA. DHH/OCDD is not required to conduct an evaluation, assessment, or an initial IFSP meeting for a child referred 45 or fewer days prior to the third birthday.

DHH/OCDD will ensure that no earlier than nine (9) months prior to the child's third birthday (at the discretion of all parties) and at least ninety (90) days prior to the child's third birthday, the Part C family service coordinator will convene an IFSP meeting/transition conference to discuss the transition process with the parents and other team members in order to develop a transition plan. LEA personnel will be invited to participate in this IFSP meeting. The DOE will inform the LEA personnel about their

responsibility in their participation in the transition process. The transition plan in the IFSP will include any appropriate steps for the toddler to exit the Part C program and any transition services that the IFSP team determines are necessary to needed by that support the transition of the toddler and the family, including:

The steps for the transition plan must include:

a. discussions with, and training of, parents regarding future placements and other matters related to the child's transition;

b. procedures to prepare the child for changes in service delivery including steps to help the child adjust to, and function in, a new setting; and

c. confirmation that child find information about the child has been transmitted to the local education agency or other relevant agency, to ensure continuity of services including the most recent evaluation and assessment information of the child and the family and most recent IFSP. This requires parental consent.

d. review of program options for the toddler for the period from the toddler's third birthday through the remainder of the school year.

. Additionally, if the parent agrees to eligibility determination for special education and related services under Part B of IDEA, the Part C family service coordinator shall obtain release(s) of information for the LEA including the most recent evaluation, assessments, IFSP's, progress notes, etc at this meeting or prior to this meeting and for the LEA to provide the eligibility status and IEP if the child is found eligible for Part B.

DOE ensures that LEAs will provide special education and related services to eligible children as identified in the IEP as of the child's third birthday. At the request of the parent, an invitation to the initial IEP meeting must be sent to the Part C service coordinator or other representative if the child received Part C services. The IEP team must consider the IFSP, including the natural environments statement when developing the initial IEP. If a child's third birthday occurs during the summer, the child's IEP team shall determine the date when services under an IEP will begin. However, services shall begin no later than the first day of the school year.

DHH/OCDD and DOE agree to inform parents of procedures required to request services during the summer months. For those children eligible for Part B services whose third birthday occurs during the summer months but have IEPs that do not provide for summer services, parents may request continuation of Part C services from DHH/OCDD until the

child is able to begin receiving Part B services pursuant to the IEP. DHH/OCDD will consider these requests on a case by case basis subject to available funds.

DHH/OCDD and DOE agree to meet as needed to discuss transition issues or any other issues identified by families or LEA personnel. Either agency may initiate these discussions.

DHH/OCDD agrees to share aggregate data relating to transition with the DOE.

This agreement shall become effective with the signatures of the Superintendent of Education and the Secretary of Health and Hospitals. This agreement may be terminated by either party by giving 30 days notice in writing.

Signatures of Agency Representatives:

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**John White, Superintendent**

**Louisiana Department of Education**

**Date**

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**Kathy Klieber, Secretary**

**Louisiana Department of Health and Hospitals**

**Date**