



ALASKA EARLY INTERVENTION/INFANT LEARNING PROGRAM

**Policies, Methods, and Descriptions to  
Implement Part C of the Individuals  
with Disabilities Education  
Improvement Act**

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**Individuals with Disabilities Education Improvement Act**

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## **I. Introduction (34 CFR§303.1)**

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The purpose of these policies, descriptions and methods is to ensure implementation of Part C of the Individuals with Disabilities Education Act (IDEA) in the State of Alaska.

The purpose of Part C of IDEA is to provide financial assistance to States to:

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

## II. General Requirements

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### A. **Lead Agency** (34 CFR §[303.201](#))

The Alaska Department of Health and Social Services Early Intervention/Infant Learning Program (DHSS EI/ILP) is the Lead Agency for the Alaska Part C Early Intervention System.

### B. **Statewide Policy** (34 CFR §[303.101](#)(a))

Alaska has a policy in effect to ensure that appropriate early intervention services as defined in 34 CFR §[303.13](#) are available to all infants and toddlers with disabilities in Alaska and their families, including:

1. American Indian or Alaska Native infants and toddlers with disabilities and their families residing on a reservation geographically located in Alaska;
2. Infants and toddlers with disabilities who are homeless children and their families; and
3. Infants and toddlers with disabilities who are wards of the State.

### C. **State Conformity with Part C of IDEA** (34 CFR §[303.102](#))

Alaska ensures that any State rules, regulations, and policies relating to Part C conform to the purposes and requirements of Part C of IDEA.

### D. **Efforts to Employ and Advance Qualified Individuals with Disabilities** (34 CFR §[303.105](#))

The DHSS EI/ILP makes positive efforts to employ and advance in employment, qualified individuals with disabilities in programs assisted under Part C of IDEA.

### E. **Eligibility Criteria** (34 CFR §[303.111](#))

#### 1. *Purpose*

- a. This section defines and describes the eligibility criteria used to determine which infants and toddlers may be enrolled in the Part C program to receive comprehensive early intervention services through the Alaska Early Intervention/ Infant Learning Program (DHSS EI/ILP).
- b. This section also defines and describes resources afforded to children who are at-risk of substantial developmental delay, but are not eligible for Part C services.

#### 2. *Definitions*

- a. **Developmental delay** (34 CFR §[303.10](#)), when used with respect to a child residing in Alaska, has the meaning given to that term by Alaska under items 3 and 4 of this section.

- b. **At-risk of substantial developmental delay** (34 §CFR [303.5](#)) means an individual under three years of age who would be at risk of experiencing a developmental delay if early intervention services were not provided to the individual.
  - c. **Homeless children** (34 CFR §[303.17](#)) are defined as children who lack a fixed, regular and adequate nighttime residence, in conformity with section 725 (45 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act.
  - d. **The Child Abuse Protection and Treatment Act (CAPTA)** (42 U.S.C. 5106a) requires States receiving CAPTA funds to have policies regarding the notification to the Part C program of children under the age of three who were the subject of a substantiated case of child abuse or neglect.
  - e. **Informed Clinical Opinion** (34 CFR §[303.321](#)(a)(3)(ii)) may be used by an evaluation team to determine eligibility when the approved tool(s) or other domain-specific tool(s) are not able to establish a developmental level due to the age of the infant or the child's level of arousal and ability to participate at the time of the evaluation and assessment; or when there are inconsistencies in the child's performance or inconsistencies in the results of the evaluation, and the team determines that the child meets the eligibility criteria.
    - i. Informed clinical opinion means the knowledgeable perceptions of the evaluation team who use qualitative and quantitative information regarding aspects of a child's development that are difficult to measure in order to make a decision about the child's eligibility early intervention services under Part C.
    - ii. Informed clinical opinion in accordance with these policies may be used if a clear developmental level cannot be gained through the use of the approved tool(s) or domain-specific tools; or when there are inconsistencies in the child's performance or inconsistencies in the results of the evaluation; and shall be documented as "developmentally delayed".
    - iii. In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish Part C eligibility.
3. *State definition of developmental delay* (34 CFR §[303.111](#))
- a. Alaska's rigorous definition of developmental delay, consistent with 34 CFR §§[303.10](#) and [303.203](#)(c), is used by the State in carrying out programs under Part C of IDEA in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of IDEA. The definition, included below:
    - i. Describes, for each of the areas listed in 34 CFR §[303.21](#)(a)(1), the evaluation and assessment procedures, consistent with 34 CFR §[303.321](#), that are used to measure a child's development; and

- ii. Specifies the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in 34 CFR §[303.21\(a\)\(1\)](#).

#### 4. *Part C Eligibility*

The DHSS EI/ILP assures that children, birth to three years shall be eligible for early intervention services under Part C of IDEA, if the multidisciplinary team finds any one or more of the following criteria exists:

- a. **Developmental Delay:** A child experiencing a 50% delay based on age equivalent skills or equivalent standard deviations below the norm in one or more of following areas of childhood development: cognitive; physical (including vision and hearing, fine and gross motor skills); communication development (language, speech and communication); social and emotional development; and adaptive development, consistent with 34 CFR §[303.21\(a\)\(1\)](#).
  - i. A child's developmental delay must be:
    - (1) Measured and verified by appropriate approved diagnostic instruments and procedures, or
    - (2) Documented through informed clinical opinion of the multidisciplinary team if the child is unable to be appropriately and accurately tested by the standardized measures available using:
      - (a) Systematic and documented observation of functional abilities in the family's daily routine by the multidisciplinary team and parent;
      - (b) Developmental history; and
      - (c) Other appropriate assessment procedures (i.e., parent report, criteria-referenced assessment, developmental checklist).; or
- b. **Physical or Mental Condition:** An infant or toddler may be eligible for Part C when she/he has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay including, but not limited to the following conditions, including those listed in 34 CFR §[303.21\(a\)\(2\)\(ii\)](#):
  - i. Chromosomal abnormalities;
    - (1) Conditions associated with intellectual and developmental disabilities, such as Down Syndrome;
  - ii. Genetic or congenital disorders;
    - (1) Congenital or genetic central nervous system disorders;
    - (2) Birth defects or syndromes, such as:
      - (a) Myelomeningocele;

- (b) Cornelia de Lange syndrome;
- iii. Sensory impairments;
  - (1) Deaf;
  - (2) Blind; or
  - (3) Deaf-blind;
- iv. Inborn errors of metabolism;
- v. Disorders reflecting disturbance of the development of the nervous system;
  - (1) Established central nervous system deficits resulting from hypoxia, trauma, or infection;
  - (2) Cerebral palsy;
- vi. Congenital infections;
  - (1) Cytomegalovirus (CMV);
- vii. Early childhood mental health disorders;
  - (1) Adjustment Disorder;
  - (2) Disorders of relating or communicating;
  - (3) Posttraumatic Stress Disorder;
  - (4) Disorders of Affect; and
  - (5) Anxiety Disorder of Infancy and Early Childhood;
- viii. Disorder secondary to exposure to toxic substances, including fetal alcohol syndrome;
- ix. Health impairments;
  - (1) Autism;
  - (2) Epilepsy;
  - (3) Neurological impairment or other chronic, acute or degenerative health problems;
  - (4) Microcephaly;
  - (5) Hydrocephaly; or
- x. Orthopedic impairments;
  - (1) Impairments of the normal function of muscles, joints or bones due to congenital anomaly, disease or permanent injury.

- c. This list is not exhaustive. The multidisciplinary team may use written verification from a qualified medical professional that the child's medical condition typically results in a substantial development delay.

5. *Procedures*

- a. Specific procedures used to determine the existence of a developmental delay in each area of development can be found in the Evaluation of the Child and Assessment of the Child and Family section of these policies and procedures. The criteria and procedures include a multidisciplinary evaluation that uses informed clinical opinion by qualified personnel when determining the existence of a developmental delay or physical or mental condition with a high probability of resulting in a delay.
- b. This eligibility definition does not determine service format, which should reflect the need for placement, levels of service, or professionals who will serve the child and family. Particulars of a child and family's program shall be individually determined and occur subsequent to determination of eligibility. No one service agency or program will be responsible for providing all services. A variety of State, Federal, and private agencies will be utilized to meet the service delivery needs of eligible children and families.
- c. Careful evaluation is necessary to determine eligibility and must be administered by appropriate professionals whose training qualifies them to evaluate infants and toddlers in the developmental area of concern. Standardized tests (when appropriate), rating scales, developmental profiles, functionally-based tools and other appropriate instruments and procedures shall be used to document the nature and severity of the conditions requiring early intervention services. Evaluation procedures should be performed in such a manner that testing procedures do not overly tax the stamina of the child and family. It is recommended that evaluations be paced in a way that allows the child to perform to his or her maximum potential, even if portions of testing must be conducted on different days. A developmental delay is not an isolated factor and should not be separated from the total adaptive and developmental progress, or the cultural environment of the child and family.

6. *Services for Children Not Eligible for Part C*

- a. Alaska's policy on serving children at-risk for developmental delays or disabilities is to provide services according to availability of state and other non-Federal funding for the Early Intervention/Infant Learning Program (EI/ILP). While these children are not provided services under Part C or with Part C funding, collaborative efforts with programs (e.g., Parents as Teachers (PAT), Early Head Start, and child care resource and referral agencies) have helped to strengthen and improve the available resources to at-risk children. The following describes how non-Part C eligible children who can benefit



from early intervention services are identified and receive services in Alaska. Children may receive services if the following criteria exist:

- i. **At Risk of Developmental Delay** means the multidisciplinary team, using the informed clinical judgment of qualified professionals, confirms the development of a DHSS EI/ILP determined eligible level of delay is probable if early interventions services are not provided because the child is experiencing certain environmental or biological conditions. For the purpose of enabling families to access services, the presence of two or more documented risk factors in either of the following two categories (environmentally at-risk or biologically at-risk) shall identify as eligible under this category.

- (1) *Environmentally at-risk*. Environmental risk is defined as the presence of an environment factor that may pose a serious threat to a child's development such as, but not restricted to:
  - (a) Homeless/Transitory (change in residence more than every six weeks);
  - (b) Isolation including: the lack of formal or informal support system (i.e., lack of community such as religious affiliation, involvement with other community institutions, access to agencies or private providers); lack of informal support systems (i.e., father, mother, or partner absent, adjustment problems, living alone with problem relationships or no contact with extended family or friends);
  - (c) Family is unable to meet essential needs such as nutrition, clothing, and shelter;
  - (d) Limited prenatal care or unknown prenatal history;
  - (e) Parent-infant interaction concerns including attachment concerns, inappropriate perceptions or expectations of infant, parental rejection of infant;
  - (f) Teenage (17 years of less) and/or single parents who lack formal or informal support systems;
  - (g) Parents who feel that their experience of a mental or physical disability and their need to rely on outside resources interferes with their ability to provide adequate care, nurturing and stimulation to their child;
  - (h) Suspected or documented physical or sexual abuse;
  - (i) Physical or emotional neglect;
  - (j) Children born to parents, or living in homes, where there is a history of violence, abuse and/or neglect;

- (k) Parental education less than 8 years;
  - (l) Child is a ward of the state;
  - (m) Chemical or other substance abuse within the home;
  - (n) Inadequate health care of the child (i.e., behind in immunizations, serious illnesses or infections untreated); or
  - (o) Long-term separation of the parent and child.
- (2) *Biologically at-risk*. Biological Risk is defined as the presence of a document history of prenatal, perinatal, neonatal, or early developmental events or conditions suggestive of damage to the developing central nervous system, which increases the probability of later atypical development including but not limited to:
- (a) Birth weight <2500grams (3lbs, 5 ozs);
  - (b) Gestational age <35 weeks;
  - (c) Small for gestational age at birth;
  - (d) Infant requiring ventilation therapy and/or prolonged oxygen therapy;
  - (e) Significant apnea with monitoring recommended;
  - (f) Periventricular hemorrhage;
  - (g) Polycythemia requiring a partial exchange transfusion;
  - (h) Hyperbilirubinemia (requiring blood exchange);
  - (i) Infants admitted to neonatal intensive care unit for at least 7 days;
  - (j) Low Apgar scores (5 minute Apgar <7) and/or need for continued resuscitation after 5 minutes;
  - (k) Asphyxia;
  - (l) Seizure disorder;
  - (m) Heart conditions;
  - (n) Kidney disorders;
  - (o) Chronic lung disorders;
  - (p) Medical personnel and/or parental concern about child's development;
  - (q) Growth retardation (weight and head circumference less than tenth percentile);

- (r) Effects of maternal use of prescription or other drugs and alcohol which are evident at birth or are in the infants system at birth;
  - (s) Myelodysplasia;
  - (t) Cranio-facial and neck anomalies;
  - (u) Brain/spinal cord trauma; or
  - (v) Orthopedic problems (i.e., congenitally dislocated hips, club foot).
- b. Alaska law provides that, if funding permits, infants and toddlers at risk of experiencing mild to moderate development delays and their families may be enrolled in “core” early intervention services (that are not Part C services), including early identification, screening and assessment, family service coordination, and special instruction provided on home visits or in play group sessions conducted by an early intervention service provider. Additional early intervention services may also be made available. Access to these services is on a prioritized basis, after entitlement priority of services to Part C eligible children is satisfied as follows:
  - i. If state funding available for Early Intervention/Infant Learning Program services is insufficient to provide services for Non-Part C eligible children and their families, EIS Programs shall eliminate services in the following order:
    - (1) Additional early intervention services for children at risk of experiencing a developmental delay or disability if services are not provided;
    - (2) Additional early intervention services for children experiencing a mild to moderate (greater than 15% and less than 50%) developmental delay or disability;
    - (3) Core early intervention services for children at risk of experiencing developmental delay or disability if services are not provided; and
    - (4) Core early intervention services for children experiencing mild to moderate (greater than 15% and less than 50%) developmental delay or disability.
  - ii. When funding is not available to provide the above levels of service to all identified individuals experiencing a mild to moderate developmental delay or disability or at risk of experiencing developmental delay or disability if services are not provided, those individuals for whom services are unavailable are placed on a waitlist and given the following options:

- (1) The EIS Program will provide information to families about other resources and assist in referral to other community based services, if appropriate; or
- (2) Periodic follow-up to recheck the child's developmental progress and/ or to enroll in core services as they become available.

**F. Availability of Early Intervention Services** (34 CFR§[303.112](#))

1. Alaska ensures appropriate early intervention services are based on scientifically-based research, to the extent practical, and are available to all infants and toddlers with disabilities and their families, including:
  - a. American Indian or Alaska Native infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and
  - b. Infants and toddlers with disabilities who are homeless children and their families.

**G. Evaluation, Assessment, and Nondiscriminatory Procedures** (34 CFR §[303.113](#))

1. Alaska ensures the performance of:
  - a. A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in Alaska; and
  - b. A family-directed assessment of the needs of each child's family to appropriately assist in the development of the infant or toddler.
2. The required evaluation and family-directed assessments meet the requirements of 34 CFR §[303.321](#).

**H. Individualized Family Service Plan (IFSP)** (34 CFR §[303.114](#))

Alaska ensures that, for each infant or toddler with a disability and his or her family in Alaska, an IFSP, as defined in 34 CFR §[303.20](#), is developed and implemented that meets the requirements of 34 CFR §§[303.340](#) through [303.345](#), and that includes service coordination services, as defined in 34 CFR §[303.34](#).

**I. Comprehensive Child Find System** (34 CFR §[303.115](#))

Alaska has a comprehensive Child Find system that meets the requirements in 34 CFR §§[303.302](#) and [303.303](#).

**J. Public Awareness Program** (34 CFR §[303.116](#))

The DHSS EI/ILP assures a public awareness program is in place that focuses on the early identification of children who are eligible to receive Part C early intervention services. The public awareness program includes information focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the

DHSS EI/ILP to all primary referral sources, especially hospitals and physicians, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers, in accordance with 34 CFR §[303.301](#). Specific policies and procedures for the public awareness program are included in Section X, Public Awareness Program - Information for Parents.

**K. Central Directory** (34 CFR §[303.117](#))

1. *Assurance*

- a. The DHSSEI/ILP has a central directory that is accessible to the general public (i.e., through the DHSS EI/ILP website and other appropriate means) and includes accurate, up-to-date information about:
  - i. Public and private early intervention services, resources, and experts available in Alaska;
  - ii. Professional and other groups, including parent support, and training and information centers, such as those funded under Part C of IDEA, that provide assistance to infants and toddler with disabilities eligible under Part C of IDEA and their families; and
  - iii. Research and demonstration projects being conducted in Alaska relating to infants and toddlers with disabilities.

2. *Procedures for Accessing Information through the Central Directory*

- a. The general public may access information regarding early intervention services in two ways:
  - i. Telecommunications for the Central Directory
    - (1) The DHSS EI/ILP has created a toll-free hotline available for all Alaskans to call with questions regarding referrals to early intervention services. Available information includes: resources, experts, and research and demonstration projects by zip code or region within Alaska. Data are contained in a computerized centralized directory. A trained information and referral specialist responds to all callers, providing information, the nature and scope of services, assistance available, as well as points of contact for any of the sources including parent support groups and advocacy organizations. The central directory is updated quarterly. It is available statewide, including rural areas, and is accessible to all individuals with disabilities and their families including a hard copy and/or TDY/TTY. Phone numbers are 1-800-478-2221 for information and 1-877-HSS-FMLY (1-877-477-3659) for staff and clients to talk to DHSS personnel.

- ii. Online publication
  - (1) The Governor's Council on Disabilities and Special Education online publication has developed a booklet entitled, *Where to Turn*, which includes names, phone numbers, and locations of early intervention services, resources, and experts. This directory is widely distributed. The distribution of the booklet is focused to assure access by persons who experience a disability.
- b. The availability of the central directory information has been publicized and widely distributed to inform the public of the Alaska 211 telephone number (1-800-478-2221) for gaining access to the directory.

**L. Comprehensive System of Personnel Development (CSPD) (34 CFR§[303.118](#))**

**1. Assurances**

- a. The DHSS EI/ILP has a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in Alaska. This training includes discussion around the requirements for primary referral sources to:
  - i. Maintain written documentation which supports the parent's permission to refer, the parent's request that a referral not be made, or the parent's request to extend the timeline for referral beyond seven days;
  - ii. Explain those services which would be available if the referral were made and the consequences of not accessing those services through the referral process, indicating that the referral does not commit the parent to participate in the Part C system; and
  - iii. Initiate follow-up contacts with those families who initially request that a referral not be made. The implementation of these procedures for referral meets the requirement of 34 CFR §[303.303](#).
- b. The DHSS EI/ILP is committed to providing and/or collaborating with appropriate organizations to offer interdisciplinary pre-service and in-service training, to the extent appropriate.
- c. The DHSS EI/ILP comprehensive system of personnel development includes:
  - i. Training personnel to implement innovative strategies and activities for the recruitment and retention of early intervention service providers;
  - ii. Promoting the preparation of early intervention service providers who are fully and appropriately qualified to provide early intervention services under Part C of IDEA; and

- iii. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an EIS Program under Part C of IDEA to a preschool program under section 619 of IDEA, Head Start, Early Head Start, an elementary school program under Part B of IDEA, or another appropriate program.
- d. The DHSS EI/ILP comprehensive system of personnel development may include:
  - i. Training personnel to work in rural and inner-city areas;
  - ii. Training personnel in the emotional and social development of young children;
  - iii. Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and
  - iv. Training personnel who provide services under Part C of IDEA to use standards that are consistent with early learning personnel development standards funded under the State Advisory Council of Early Childhood Education and Care established under the Head Start Act, if applicable.

## 2. *Comprehensive System of Personnel Development Procedures*

- a. The Comprehensive System of Personnel Development provides:
  - i. Pre-service and in-service training to be conducted on an interdisciplinary basis to the extent appropriate;
  - ii. The training of a variety of personnel to meet the requirement of the Part C system, including public and private providers, and primary referral sources; and
  - iii. Opportunities for parents to participate in trainings.
- b. Training provided in the comprehensive system shall relate specifically to:
  - i. Understanding the basic components of early intervention services available in Alaska;
  - ii. Meeting interrelated social and emotional, health, developmental, and educational needs of eligible children;
  - iii. Assisting families to enhance the development of their children and to participate fully in the development and implementation of Individualized Family Service Plans (IFSPs);
  - iv. Innovative strategies and activities for the recruitment and retention of early intervention service providers;
  - v. Preparation of early intervention service providers who are fully and appropriately qualified to provide early intervention services;

- vi. Training and personnel to work in remote, rural and inner-city areas and cross-culturally; and
  - vii. Training personnel to coordinate transition services for infants and toddlers from an EIS Program to a preschool program under Part B, or to other appropriate services when they leave the early intervention program.
- c. Training for early intervention service providers includes the *Alaska Part C Credential* as follows:
- i. All staff working in an EIS Program in Alaska, who work 20 hours or more per week, are required to complete the Alaska Part C Credential modules that apply to their specific job responsibilities within 6 months of hire.
  - ii. Upon completion of the Part C modules and demonstrated evidence of competencies, the employee is eligible to receive the Part C Credential issued by the DHSS EI/ILP.
  - iii. Collaboration across departments is accomplished through regular communication between the Part C Coordinator, Special Education Administrator and State 619 Coordinator that addresses training needs of staff involved in providing early intervention services and educational services statewide. Collaboration takes place around a variety of issues including:
    - (1) Early childhood transition;
    - (2) Training opportunities (i.e., summer institutes, conferences, etc.);
    - (3) Training modules for the early intervention systems;
    - (4) Joint recommendations to strengthen pre-service and in-service offerings; and
    - (5) Certification/Endorsement.
- d. The DHSS EI/ILP comprehensive system for personnel development includes:
- i. The EI/ILP Roles and Responsibilities chart describing job titles, associated job responsibilities and qualifications;
  - ii. Collaboration with university programs regarding pre-service and in-service opportunities in Alaska for those interested in early intervention training;
  - iii. A set of core competencies and skills to guide the development of training and individualized professional development plans for service providers;
  - iv. A credentialing system for early intervention service providers that incorporates the above competencies and skill levels into a set of



training modules and a tracking system to ensure highly qualified early intervention service providers statewide; and

- v. Guidelines for recruitment and retention of highly qualified staff.

**M. Personnel Standards** (34 CFR §[303.119](#))

1. The DHSS EI/ILP assures that the professional standards for EIS personnel are consistent with State regulations and requirements for licensing and certification of professionals to practice within their respective disciplines, as outlined in the EI/ILP Roles and Responsibilities chart.
2. The DHSS EI/ILP has policies and procedures relating to the establishment and maintenance of qualification standards to ensure that early intervention service personnel necessary to carry out the purposes of Part C of IDEA are appropriately and adequately prepared and trained. These standards:
  - a. Are consistent with State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline or area in which personnel are providing early intervention services;
  - b. Do not prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy to assist in the provision of early intervention services under Part C of IDEA to infants and toddlers with disabilities; and
  - c. Include making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards.

**N. DHSS EI/ILP Role in Supervision, Monitoring, Funding, Interagency Coordination, and Other Responsibilities** (34 CFR §[303.120](#))

1. *Assurances*
  - a. DHSS EI/ILP, as the designated Lead Agency, has the single line of responsibility for the following:
    - i. The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS Programs receiving assistance under Part C of IDEA.
    - ii. The monitoring of programs and activities used by Alaska to carry out Part C of IDEA, whether or not the programs or activities are administered by agencies, institutions, organizations, EIS Programs, and

service providers that are receiving assistance under Part C of IDEA, to ensure that Alaska complies with Part C of IDEA, including:

- (1) Monitoring agencies, institutions, organizations, and EIS Programs used by Alaska to carry out Part C of IDEA;
  - (2) Enforcing any obligations imposed on those agencies, institutions, organizations, EIS Programs, and service providers under Part C of IDEA and these regulations;
  - (3) Providing technical assistance, if necessary, to those agencies, institutions, organizations, EIS Programs, and service providers;
  - (4) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after DHSS EI/ILP's identification of the noncompliance; and
  - (5) Conducting these activities consistent with 34 CFR §§[303.700](#) through [303.707](#), and any other activities required by Alaska.
- iii. The identification and coordination of all available resources for early intervention services within Alaska, including those from Federal, State, local, and private sources, consistent with subpart F of Part C of IDEA.
  - iv. The assignment of financial responsibility in accordance with subpart F of Part C of IDEA.
  - v. The development of procedures in accordance with subpart F of Part C of IDEA to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of IDEA in a timely manner, pending the resolution of any disputes among public agencies, EIS Programs, or service providers.
  - vi. The resolution of intra-and interagency disputes in accordance with subpart F of Part C of IDEA.
  - vii. The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with 34 CFR §[303.511](#), that define the financial responsibility of each agency for paying for early intervention services, consistent with Alaska law, and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of Part C of IDEA.

## 2. *Procedure and Method of Administering the Program*

- a. The DHSS EI/ILP has established policies and procedure for all EIS Programs and related early intervention service agencies to ensure the proper administration of the Part C program within Alaska. The procedures follow DHSS Grant-In-Aid regulations. Specific procedures for program monitoring are included in Section XXI, Federal and State Monitoring and Enforcement.

**O. Policy for Contracting or Otherwise Arranging for Services** (34 CFR §[303.121](#))

**1. Assurance**

- a. The DHSS EI/ILP has a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of IDEA, including the contents of the application, and the conditions of the contract or other arrangements. The policy:
  - i. Includes a requirement that all early intervention services meet State standards and be consistent with the provisions of Part C of IDEA; and
  - ii. Is consistent with the Education Department General Administrative Regulations in 34 CFR Part 80.

**2. Procedures and Methods for Securing the Provision of Services**

- a. In addition to providing direct services, the Alaska DHSS EI/ILP has established three methods for securing services:
  - i. Reimbursable Service Agreements (RSA): This process is used within the DHSS EI/ILP to purchase services from another agency within the Department.
  - ii. Contracting: This process is used for many of the projects to implement Part C service delivery system and by DHSS EI/ILP grantees to deliver direct services to eligible children and families. The process can either be competing or non-competing application, and follows State laws.
  - iii. Granting: This process is used for the majority of EIS Programs. There is a three-year competitive application cycle that is approved by the Commissioner of the DHSS EI/ILP if the applicant meets State and Federal requirements that are outlined in the Request for Proposal (RFP). The RFP contains all the requirements the grantee must meet for approval. The grantee then signs the notification of grant award/agreement, which further outlines requirements for grant compliance.
- 3. All recipients of Part C funds must provide early intervention services that meet State standards and are consistent with the provisions of Part C. Implementation of Part C services will occur on a local level driven by standards and policy developed through State and Federal laws.

**P. Reimbursement Procedures** (34 CFR §[303.122](#))

DHSS EI/ILP has procedures for securing the timely reimbursement of funds used under Part C of IDEA, in accordance with subpart F of Part C of IDEA.

**Q. Procedural Safeguards** (34 CFR §[303.123](#))

DHSS EI/ILP has procedural safeguards that meet the requirements of subpart E of Part C of IDEA. The procedural safeguards are described in detail in Section XIV, Procedural Safeguards.

**R. Data Collection** (34 CFR §[303.124](#))

1. DHSS EI/ILP has a system for compiling and reporting timely and accurate data that meets the requirements in Part C of IDEA. This system includes:
  - a. A description of the process that Alaska uses to compile data on infants or toddlers with disabilities receiving early intervention services under Part C of IDEA, including a description of the Alaska's sampling methods, for reporting the data required by the Secretary under sections 616 and 618 of IDEA and 34 CFR §§[303.700](#) through 303.707 and [303.720](#) through [303.724](#).
  - b. Policies and procedures for data collection are included in Section XXI, Data Requirements.

**S. State Interagency Coordinating Council** (34 CFR §[303.125](#))

Alaska has a State Interagency Coordinating Council (ICC) that meets the requirements of subpart G of Part C of IDEA.

**T. Early Intervention Services in Natural Environments** (34 CFR §[303.126](#))

1. *Definition*
  - a. Natural environment 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 at 34 CFR §[303.126](#).
2. *Assurances*
  - a. Alaska has policies and procedures to ensure, consistent with 34 CFR §§[303.13](#)(a)(8) (early intervention services), [303.26](#) (natural environments), and [303.344](#)(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided:
    - i. To the maximum extent appropriate, in natural environments, and
    - ii. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment.
  - b. Alaska's procedures for ensuring early intervention services in natural environments are in Section XIII, Individualized Family Service Plans.

**U. Definition of At-risk Infants and Toddlers and Description of Services** (34 CFR §[303.204](#))

Please see Eligibility of Children Not Eligible for Part C Services.

**V. Referral Policies for Specific Children** (34 CFR §[303.206](#))

Alaska has policies and procedures that require the referral for early intervention services under Part C of IDEA of specific children under the age of three, including the referral of a child under the age of three who is the subject of a substantiated case of child abuse or neglect or is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure as described in 34 CFR §[303.303](#)(b). Referral procedures are described in Section XI, Referral Procedures.

**W. Availability of Resources** (34 CFR §[303.207](#))

1. Alaska ensures that resources are made available under Part C of IDEA for all geographic areas within the State.
  - a. Early intervention services are provided through agreements, referred to as grants that meet federal contracting requirements in which providers are required to serve all children in Alaska. These agreements, referred to as grants, are consistent with the requirements under EDGAR 76.50 and Part C of IDEA, which do not permit sub-granting.
  - b. Through its RFP, Alaska provides a grant to an EIS program for each geographic region of the State. EI/ILP awards grants for local EIS programs in all geographic areas of the state.
  - c. Additional procedures DHSS EI/ILP uses to ensure available resources are described in Section VII, Item 2, Equitable Access and Participation.

### **III. Public Participation Policies and Procedures** **(34 CFR §303.208)**

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- A.** At least 60 days prior to being submitted to the Department, Alaska's application for funds under Part C of IDEA, including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application, is published in a manner that ensures circulation throughout the State for at least a 60-day period, with opportunities for public comment on the application for at least 30 days during that period.
  
- B.** The application includes a description of the policies and procedures used by Alaska to ensure that, before adopting any new policy or procedure, including any revision to an existing policy or procedure, needed to comply with Part C of IDEA and that regulations, DHSS EI/ILP:
  - 1. Holds public hearings on the new policy or procedure, including any revision to an existing policy or procedure;
  - 2. Provides notice of the hearings held in accordance with (1) above at least 30 days before the hearings were conducted to enable public participation; and
  - 3. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, service providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure, including any revision to an existing policy or procedure needed to comply with Part C of IDEA and these regulations.

## IV. Transition to Preschool and Other Programs (34 CFR §303.209)

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### A. General

- a. The Alaska DHSS EI/ILP employs these written policies and procedures to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under Part C to:
  - i. Preschool or other appropriate services for toddlers with disabilities; or
  - ii. Exiting the program for infants and toddlers with disabilities.
- b. Alaska has established, consistent with 34 CFR §303.209(a)(3), an Interagency Agreement between the Lead Agency, DHSS EI/ILP and the State Education Agency (SEA), the Alaska Department of Education and Early Development (EED). The Memorandum of Agreement between DHSS EI/ILP and EED addresses how the lead agency and the SEA will meet the requirements of this section.
- c. Throughout an infant or toddler's participation in early intervention, the family and the child's IFSP Team discuss the transition steps to be taken to ensure a smooth transition for the toddler when early intervention services end, by the toddler's third birthday.
- d. The policies and procedures developed and implemented for Part C eligible children are designed to ensure a continuation of individualized services for the child and family during the time when the coordination and delivery of services transition from early intervention to Part B, the school-age program. The procedures for transition are based upon the principles that services should be delivered within a family-centered approach through collaboration and partnership among families and service providers.
- e. Responsibility for implementing these procedures is delegated to the local Early Intervention Services Program (EIS Program) where the child is enrolled.

### B. Definitions

- a. *Local Education Agency or LEA* means the school district responsible for IDEA services to resident children or students under Part B. (34 CFR §303.23)
- b. *Potentially Eligible* means toddlers eligible for Part C services that may be eligible for special education and related services under Part B. Based on Alaska's eligibility requirements for Part C and Part B, all children who receive Part C services in Alaska are potentially eligible for Part B preschool services.
- c. *State Education Agency or SEA* is the Alaska Department of Education and Early Development.

- d. *Transition* means the process to transition services and supports for toddlers with disabilities from Part C to Part B.
- e. *Transition Plan* means a document that is part of the IFSP for all infants and toddlers. The plan must include Part C program options, steps, and potential services that may assist in transition.

**C. Notification to the SEA and Appropriate LEA (34 CFR §[303.209](#)(b))**

1. At least 90 days but not more than 9 months prior to the third birthday of a toddler with a disability, DHSS EI/ILP notifies the SEA and EIS Programs notify the LEA (where the toddler receiving Part C services resides) that a toddler who is receiving Part C services and who is potentially eligible for services under the Part B section 619 preschool program will shortly turn three years old and exit Part C, unless the parent opts out as described in item (4) below. (IDEA section 637(a)(9)(A)(ii)(I) and 34 CFR §[303.209](#)(b)).
  - a. DHSS EI/ILP provides notification to EED when a Part C eligible child turns 27 months of age (or following the initial IFSP meeting if the child is enrolled between 26 and 34.5 months of age) unless the parents opt out of notification (see C4 below). Notification information for Part C eligible children (name, date of birth, and parent contact information (including parents' names, addresses, and telephone numbers)) will be reported weekly through the use of a secure e-mail with receipt verification. Unless the parent opts out of notification (see C4 below), EIS programs notify the LEA that a potentially eligible Part C child will shortly turn three years old and exit Part C through an invitation to the child's transition conference. This invitation to the LEA constitutes a referral to Part B.
  - b. If a family does not provide approval for a transition conference and has not opted out of notification, the EIS program provides a written notification to the LEA with the child's name, date of birth and parent contact information.
2. If an EIS Program determines that a toddler is eligible for early intervention services more than 45 days but less than 90 days before that toddler's third birthday, DHSS and the EIS Program will provide the Transition Notification to the SEA and LEA (where the toddler receiving Part C services resides) as soon as possible after determining the toddler's eligibility, unless the parent opts out of the notification as described in item (4) below. (34 CFR §[303.209](#)(b)(1)(ii))
3. If a child is referred to Part C fewer than 45 days before the toddler's third birthday, DHSS is not required to conduct an evaluation, assessment, or initial Individualized Family Service Plan (IFSP) meeting. If that child may be eligible for preschool services under Part B of the IDEA, DHSS, with parental consent required by 34 CFR §[303.414](#), shall refer the toddler to the SEA and the appropriate LEA.
4. *Opt-Out Policy*. DHSS EI/ILP has adopted an opt-out policy under 34 CFR §§[303.209](#)(c) and [303.401](#)(e). EIS Programs must inform the parents of a toddler



with a disability of the intended disclosure of directory information in C1 and C2 above and allow the parents at least one month (unless the child is enrolled in an EIS Program between 26 and 34.5 months, when the opt out form must be signed at the initial IFSP meeting) to opt out of the sharing of personally identifiable information with Part B.

- c. EIS Programs will review the opt-out policy and the “Special Education Notification Opt Out” form at either the initial IFSP meeting or the initiation of transition planning before the child is 26 months of age.
- d. If the “Special Education Notification Opt Out” form is provided to parents at or prior to 26 months of age and is not received by the local EIS program by the time a child is 27 months old, notification will be sent.
- e. If a toddler is enrolled in an EIS Program between 26 and 34.5 months of age, the parent must sign the “Special Education Notification Opt Out” form at the initial IFSP meeting if they want to opt out of notification.
- f. If the parent opts out by signing the “Special Education Notification Opt Out” form, DHSS EI/ILP and the local EIS program will not make the notifications in C1 or C2 above.

**D. Transition Conference to Discuss Services** (34 CFR §[303.209](#)(c))

- 1. With the family’s approval, the EIS Program must conduct a transition conference for each toddler with disabilities who is receiving Part C services and who will be exiting the Part C program and is potentially eligible for Part B services. During the transition conference, the parties will discuss any services the toddler may receive under Part B.
  - a. Based on the definition of potentially eligible (see item B2 of this section), all children who receive Part C services are potentially eligible for Part B and are provided a transition conference. Because all children are potentially eligible for Part B special education services, there are no transition conferences held for Part C children that are not potentially eligible for Part B.
- 2. If the toddler is potentially eligible for Part B preschool services, the conference shall be held no later than 90 days before the toddler’s third birthday, but at the discretion of all parties, the transition conference may occur up to 9 months before the toddler’s third birthday.
- 3. The transition conference may be combined with the IFSP meeting to develop the transition plan. (34 CFR §[303.209](#)(e))
- 4. The transition conference shall be held at a time and location convenient for the family and in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. (34 CFR §[303.342](#)(d))

5. Meeting arrangements shall be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they shall be able to attend. (34 CFR [§303.342\(d\)](#)).
6. The Part C Service Coordinator is responsible for inviting meeting participants to the transition conference.
  - a. For the toddler who may be eligible for preschool services under Part B, the transition conference must include the parent or parents of the child, other family members (as requested by the parent), the EIS Program representative(s), the LEA representative(s), and other individuals required to be included in an initial or annual IFSP meeting in accordance with 34 CFR [§303.343\(a\)](#). If the LEA representative does not attend, the meeting may be held without the LEA; however a representative of the LEA is responsible for attending under Part B of the IDEA. The invitation to the transition conference constitutes notification to the LEA. Both parties should make reasonable efforts to ensure attendance.
7. Any transition conference must meet the requirements for an IFSP meeting in 34 CFR [§303.342\(d\)](#) (accessibility and convenience of meetings) and (e) (parental consent); [§303.343\(a\)](#) (initial and annual IFSP team meeting) and [§303.209\(e\)](#) (transition conference and meeting to develop transition plan). These requirements are described in detail in Section XIII, Individualized Family Service Plans.

**E. The IFSP Transition Plan** (34 CFR [§303.209\(d\)](#))

1. The IFSP Team, including the family must establish a transition plan for each infant and toddler with a disability exiting the Part C program at least 90 days and not more than 9 months, before the toddler's third birthday.
2. The transition plan must be included in the IFSP, using appropriate IFSP documentation and must describe appropriate steps for the toddler to exit the Part C program and any transition services needed by the toddler and the family for transition to preschool or other appropriate services at age three consistent with 34 CFR [§303.344\(h\)](#).
  - a. The transition plan in the IFSP must include the steps and services to be taken to support the smooth transition of the child from Part C services to:
    - i. Preschool services under Part B, to the extent that those services are appropriate;
    - ii. Other appropriate services.
  - b. The transition steps required must include—
    - i. Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

- ii. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
  - iii. Confirmation that, unless the parent chose to opt out, child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with C above and Alaska's opt out policy at Section IV(C)(4) of these policies and procedures, and, with parental consent, transmission of additional information needed by the LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP; and
  - iv. Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child.
- 4. The transition conference and the IFSP meeting to develop the transition plan may be combined in one meeting. (34 CFR §[303.209](#)(e)) Any meeting to develop the transition plan must meet the requirements in 34 CFR §§[303.342](#)(d) and (e) and [303.343](#)(a):
  - a. The transition conference shall be held at a time and location convenient for the family and in the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so. (34 CFR §[303.342](#)(d))
  - b. Meeting arrangements shall be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they shall be able to attend. (34 CFR §[303.342](#)(d))
- 5. The FSC and other IFSP team members shall review the program options for the toddler with a disability who is potentially eligible for Part B, for the period from that toddler's third birthday through the remainder of the school year. The team also discusses with the family all early childhood options available in their community. Options may include preschool special education services, Head Start, private preschools, and childcare settings. (34 CFR §[303.209](#)(d)(1)(i))

### **C. Late Referrals to Part C**

- 1. *Initial Referral to Part C between 33 Months and 34.5 Months of Age.* Upon receipt of an initial referral of a toddler between 33 and 34.5 months of age (89 to 45 days prior to the toddler's third birthday), the EIS Program shall complete the eligibility determination process and hold an initial IFSP meeting within 45 calendar days of the referral. A transition plan is not required, but the initial IFSP must include appropriate transition content. A transition conference is not required but notification must be provided to the SEA and LEA unless the parents opt out of notification.

2. *Initial Referral to Part C between 34.5 and 36 Months of Age.* Upon receipt of an initial referral of a toddler between 34.5 and 36 months of age (less than 45 days prior to the toddler's third birthday), an EIS Program is not required to complete the evaluation of the toddler to determine eligibility for Part C. Notification, transition planning and a transition conference are not required. With parental consent, the EIS Program shall refer the toddler to the LEA or assist the family in making the referral. The LEA will accept this as an initial referral for special education and not as a toddler served by Part C.

## **V. Coordination with Head Start and Early Head Start, Early Education, and Child Care Programs (34 CFR §303.210)**

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- A.** The DHSS EI/ILP promotes collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, et seq, as amended), early education and child care programs, and services under Part C of IDEA through a number of activities including:
1. DHSS EI/ILP participates, consistent with section 642(b)(1)(C)(vii) of the Head Start Act, on the State Advisory Council on Early Childhood Education and Care established under the Head Start Act. In Alaska, the State Advisory Council on Early Childhood Education and Care is known as the Alaska Early Childhood Coordination Council.
  2. DHSS EI/ILP will develop interagency agreements with Head Start and Early Head Start to ensure collaboration. DHSS EI/ILP may develop interagency agreements with early education and child care programs.
  3. Representatives from Head Start, Early Head Start, early education and child care programs are invited to participate on the State Interagency Coordinating Council and to participate in stakeholder meetings regarding the provision of early intervention services.
  4. Child care and early education programs receive information and training from EI/ILP as primary referral sources.

## VI. Additional Information and Assurances

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### A. **Equitable Access and Participation - GEPA** (34 CFR §[303.212](#))

Alaska's steps to identify barriers to equitable access have included gathering input from the ICC and larger stakeholder meetings during strategic planning processes and reviewing data from the prevalence study completed in 2005. Alaska has plans to update the prevalence study with the most recent census data approximately every 10 years to maintain current information on regional issues related to equitable access.

Alaska's Part C application contains steps and strategies taken by DHSS EI/ILP to address these barriers and to ensure equitable access to, and equitable participation in the Alaska Part C statewide system as required by section 427(b) of GEPA, include:

1. Establishment of regional EIS Program agencies that provide statewide coverage throughout designated geographic regions to assist DHSS EI/ILP with local planning, coordination of community resources and partnerships, Child Find, public awareness, family support, training and technical assistance, data collection and informal dispute resolution;
2. Implementation of a statewide toll free number (1-877-477-3659) that connects to a statewide system point of entry for information and referrals to Alaska EI/ILP;
3. Family Service Coordinators available in each region to respond timely to referrals and ensure timely initial evaluation and assessment to determine eligibility, and provide each eligible infant and toddler and their family with ongoing service coordination;
4. One or more multidisciplinary evaluation teams in each region to ensure timely access to initial evaluation and assessment, and to provide individualized early intervention services to eligible infants and toddlers and their families;
5. Statewide web-based EI/ILP database system that allows DHSS EI/ILP to monitor referrals, enrollment and early intervention service data throughout the State and to provide timely oversight and technical assistance to ensure equitable access to services in every region of Alaska.

### B. **Expenditure of Funds** (34 CFR §[303.221](#))

Alaska ensures that Federal Part C funds under section 643 of the Act will be expended in accordance with the provisions of Part C, including §§[303.500](#) through [303.501](#).

### C. **Payor of Last Resort** (34 CFR §[303.222](#))

Alaska ensures and complies with the requirements in 34 CFR §§[303.510](#) and [303.511](#) in subpart F of Part C of IDEA.

**D. Control of Funds and Property** (34 CFR §[303.223](#))

Alaska ensures that:

1. The control of funds provided under Part C of IDEA, and title to property acquired with those funds, are in a public agency for the uses and purposes provided in Part C of IDEA; and
2. A public agency administers the funds and property.

**E. Reports and Records** (34 CFR§[303.224](#))

Alaska ensures that it:

1. Makes reports in the form and containing the information that the Secretary may require; and
2. Keeps records and afford access to those records as the Secretary may find necessary to ensure compliance with the requirements of Part C of IDEA, the correctness and verification of reports, and the proper disbursement of funds provided under this Part C of IDEA.

**F. Prohibition Against Supplanting; Indirect Costs** (34 CFR §[303.225](#))

1. The Alaska application provides satisfactory assurance that the Federal funds made available under section 643 of IDEA to the State:
  - a. Are not commingled with State funds; and
  - b. Are used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.
2. To meet the requirement in paragraph (1) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under Part C of IDEA and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for:
  - a. A decrease in the number of infants and toddlers who are eligible to receive early intervention services under Part C of IDEA; and
  - b. Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.
3. Except as provided in paragraph (4) below, DHSS EI/ILP under Part C of IDEA does not charge indirect costs to its Part C grant.
4. DHSS EI/ILP has an approved indirect cost rate through the United States Department of Health and Human Services as DHSS EI/ILP's cognizant Federal

agency, DHSS EI/ILP charges an indirect costs through a restricted indirect cost rate that meets the requirements in 34 CFR §§76.560 through 76.569.

5. In charging indirect costs, DHSS EI/ILP may not charge rent, occupancy, or space maintenance costs directly to the Part C grant, unless those costs are specifically approved in advance by the Secretary.

**G. Fiscal Control** (34 CFR §[303.226](#))

Alaska ensures that fiscal control and fund accounting procedures have been adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under Part C of IDEA.

**H. Traditionally Underserved Groups** (34 CFR §[303.227](#))

Alaska ensures that policies and practices have been adopted to ensure:

1. That traditionally underserved groups, including minority, low-incomes, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of Part C of IDEA; and
2. That these families have access to culturally competent services within their local geographical areas.



## VII. Description of Part C Services and Other Definitions

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### A. Description of Part C Services (34 CFR §[303.203](#)(a))

1. Infant Learning Services and related Early Intervention Services are determined through current evaluations conducted under State and Federal laws and information from on-going assessment of the eligible child and the child's family.
2. Early intervention services should be provided to families in the types of settings in which infants and toddlers without special needs would participate. It is important that efforts be made to provide services in settings and facilities that do not remove the children from natural environments (e.g., home, child care centers, or other community centers).
3. The DHSS EI/ILP ensures the provision of early intervention services under Part C of IDEA to infants and toddlers with disabilities and their families in accordance with the provisions of Part C through the Alaska Early Intervention System. These services are defined below and are consistent with Part C of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 CFR section 303 for use in implementing the Alaska Early Intervention System. Other application definitions from 34 CFR section 303 are included below.

### B. Definitions

1. *Act* means Individuals with Disabilities Education Act (IDEA), as amended.
2. *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 this section. (34 CFR §[303.6](#))
3. *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 this section;
  - 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;
  - c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
  - d. 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). (34 CFR §[303.7](#))
4. *Day* means calendar day, unless otherwise indicated. (34 CFR §[303.9](#))
5. *Department* means the U.S. Department of Education.

6. *Early intervention service program or EIS program* means an entity designated by DHSS EI/ILP for Federal reporting under 34 CFR §§[303.700](#) through [303.702](#). (34 CFR §[303.11](#))
7. *Early intervention service provider or service provider*:
  - a. Means an entity, whether public, private, or nonprofit or an individual that provides early intervention services under Part C of the IDEA, whether or not the entity or individual receives Federal funds under Part C of the IDEA, and may include, where appropriate, DHSS EI/ILP and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in Alaska under Part C of the IDEA. In Alaska, such an entity is referred to as an Early Intervention Service Program (EIS Program) and an individual is referred to as a service provider hired by or under contract with an EIS Program that is responsible for the supervision of the provision of early intervention services.
  - b. To the extent appropriate, an EIS Program/service provider, in each area of early intervention services is responsible for:
    - i. Participating with the family in the evaluation/assessment of the child and in the development of outcomes for the Individualized Family Service Plan;
    - ii. Supporting family decision making by providing information and assistance necessary for the family to choose what they consider is in their child's best interest;
    - iii. Implementation of specific outcome strategies in a method that is appropriate for family/child;
    - iv. Consulting and skill building with parents, other service providers and representatives of appropriate community agencies to ensure the effective provision of services in that area; and
    - v. Collaborating with service providers and the family to discuss and plan coordinated services. (34 CFR §[303.12](#))
8. *Early Intervention Services* mean developmental services that:
  - a. Are provided under public supervision;
  - b. Are selected in collaboration with the parents;
  - c. Are provided at no cost, except, subject to these policies and procedures, where Federal or State law provides for a System of Payments by families, including a schedule of sliding fees;
  - d. Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or

toddler's development, as identified by the IFSP Team, in any one or more of the following areas, including:

- i. Physical development;
  - ii. Cognitive development;
  - iii. Communication development;
  - iv. Social or emotional development; or
  - v. Adaptive development;
- e. Meet the Alaska standards where the early intervention services are provided, including the requirements of Part C of the IDEA;
  - f. Include services identified under this section;
  - g. Are provided by qualified personnel, as defined in this section, including the types of personnel listed in this section;
  - h. To the maximum extent appropriate, are provided in natural environments, as defined in this section and consistent with these policies and procedures; and
  - i. Are provided in conformity with an IFSP adopted in accordance with IDEA and this section. (34 CFR [303.13\(a\)](#))
9. Early intervention services *include the following services* as defined in this section:
- a. *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 infants and toddlers with disabilities. The term assistive technology device 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. (34 CFR [§303.13\(b\)\(1\)\(i\)](#))
  - b. *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. Assistive technology services include:
    - i. The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler in the child's customary environment;
    - ii. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;
    - iii. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

- iv. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - v. Training or technical assistance for an infant or toddler with disabilities or, if appropriate, that child's family; and
  - vi. 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. (34 CFR [§303.13\(b\)\(1\)\(ii\)](#))
- c. *Audiology Services* includes:
- i. Identification of infants and toddlers with auditory impairment, using at risk criteria and appropriate audiology screening techniques;
  - ii. Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiology evaluation procedures;
  - iii. Referral for medical and other services necessary for the habilitation or rehabilitation of infants and toddlers with disabilities who have an auditory impairment;
  - iv. Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
  - v. Provision of services for prevention of hearing loss; and
  - vi. Determination of the infant's or toddler's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices. (34 CFR [§303.13\(b\)\(2\)](#))
- d. *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 child's special needs and enhancing the child's development. (34 CFR [§303.13\(b\)\(3\)](#))
- e. *Health services* means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under Part C of IDEA during the time that the child is eligible to receive early intervention services. The term includes:
- i. Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

- ii. 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. The term does not include services that are:
  - (1) Surgical in nature, such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus;
  - (2) Purely medical in nature, such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose; or
  - (3) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant. Nothing in Part C of IDEA limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes. Nothing in Part C of IDEA prevents the service provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;
  - (4) Devices, such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps, necessary to control or treat a medical condition; and
  - (5) Medical-health services, such as immunizations and regular "well-baby" care that are routinely recommended for all children. (34 CFR [§303.13](#)(b)(4) and §303.16)
- f. *Medical services* means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services. (34 CFR [§303.13](#)(b)(5))
- g. *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. Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
  - iii. Administration of medications, treatments, and regimens prescribed by a licensed physician. (34 CFR [§303.13](#)(b)(6))
- h. *Nutrition services* include:
  - i. Conducting individual assessments in:

- ii. Nutritional history and dietary intake;
  - iii. Anthropometric, biochemical, and clinical variables;
  - iv. Feeding skills and feeding problems; and
  - iv. Food habits and food preferences.
  - v. Developing and monitoring appropriate plans to address the nutritional needs of children eligible under Part C of IDEA based on the assessment findings in this subsection; and
  - vi. Making referrals to appropriate community resources to carry out nutrition goals. (34 CFR §[303.13\(b\)\(7\)](#))
- i. *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. (34 CFR §[303.13\(b\)\(8\)](#))
- j. *Physical therapy* includes services to address the promotion of sensory motor 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. (34 CFR §[303.13\(b\)\(9\)](#))
- k. *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. (34 CFR §[303.13](#)(b)(10))
- l. *Service Coordination Services* are family service coordination services and have the meaning given the term in item (C) of this section. (34 CFR §[303.13](#)(b)(11))
- m. *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. (34 CFR §[303.13](#)(b)(12))
- n. *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 context of the family;
  - 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. (34 CFR §[303.13](#)(b)(13))
- o. *Special instruction* includes:
  - i. The design of learning environments and activities that promote the infant 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. (34 CFR §[303.13](#)(b)(14))
  - p. *Speech-language pathology services* include:
    - i. Identification of children with communication or language disorders, feeding 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. (34 CFR §[303.13](#)(b)(15))
  - q. *Transportation and related costs* includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services. (34 CFR §[303.13](#)(b)(16))
  - r. *Vision services* means:
    - 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. (34 CFR §[303.13](#)(b)(17))
10. The following are the types of *qualified personnel* who provide early intervention services under Part C of IDEA:
- a. Audiologists;
  - b. Family therapists;
  - c. Nurses;
  - d. Occupational therapists;
  - e. Orientation and mobility specialists;
  - f. Pediatricians and other physicians for diagnostic and evaluation purposes;
  - g. Physical therapists;



- h. Psychologists;
  - i. Registered dietitians;
  - j. Social workers;
  - k. Special educators, including teachers of children with hearing impairments, including deafness and teachers of children with visual impairments, including blindness;
  - l. Speech and language pathologists; and
  - m. Vision specialists, including Ophthalmologists and Optometrists. (34 CFR [§303.13\(c\)](#))
11. *Other services.*
- a. The services and personnel identified and defined in this section do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services.
  - b. 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 this section or of another type of personnel that may provide early intervention services in accordance with Part C of IDEA, provided such personnel meet the requirements in these policies and procedures. (34 CFR [§303.13\(d\)](#))
12. *Elementary school* means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law. (34 CFR [§303.14](#))
13. *Free appropriate public education or FAPE*, as used in these policies and procedures 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 IDEA;
  - c. Include an appropriate preschool, elementary school, or secondary school education in Alaska; and
  - d. Are provided in conformity with an individualized education program (IEP) that meets the requirements under regulations for Part B of IDEA. (34 CFR [§303.15](#))
14. *Homeless children* means children who meet the definition given the term homeless children and youth in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq. (34 CFR [§303.17](#))

15. *Include or including* means that the items named are not all of the possible items that are covered, whether like or unlike the ones named. (34 CFR §[303.18](#))
16. *American Indian or Native Alaskan; Indian Tribe* means an individual who is a member of an American Indian or Native Alaskan tribe.
  - a. *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.
  - b. 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. (34 CFR §[303.19](#))
17. *Individualized Education Program or IEP* means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Part B of IDEA. (34 CFR §[300.22](#))
18. *Individualized Family Service Plan or IFSP* – See Section XIV, Individualized Family Service Plan, for definition. (34 CFR §[303.20](#))
19. *Infants or Toddler with a Disability* means an individual under three years of age who needs early intervention services because the individual:
  - a. Is experiencing a 50% or greater developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas (see eligibility section):
    - i. Cognitive development;
    - ii. Physical development, including vision and hearing;
    - iii. Communication development;
    - iv. Social or emotional development; or
    - v. Adaptive development.
  - b. Has a diagnosed physical or mental condition that (see eligibility section):
    - 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.

- c. Alaska does not include at-risk infants or toddlers in its Part C eligibility definition. (34 CFR §[303.21](#))
- 20. *Lead Agency* means the agency designated by the Alaska State Governor under Part C of IDEA and these policies and procedures that receives funds under Part C of Act to administer Alaska’s responsibilities under Part C of IDEA. In Alaska this is the Department of Health and Social Services Early Intervention/Infant Learning Program (DHSS EI/ILP). (34 CFR §[303.22](#))
- 21. *Local Educational Agency or LEA* means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.
  - a. Educational service agencies and other public institutions or agencies. The term includes the following:
    - i. Educational service agency, defined as a regional public multiservice agency:
    - ii. Authorized by State law to develop, manage, and provide services or programs to LEAs; and
    - iii. 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.
    - iv. 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.
  - b. 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 IDEA with the smallest student population. (34 CFR §[303.23](#))
- 22. *Native Language*, when used with respect to an individual who is limited English proficient or LEP, as that term is defined in IDEA, means:
  - a. 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 this section; and

- b. For evaluations and assessments conducted pursuant to these policies and procedures, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
  - c. 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. (34 CFR [§303.25](#))
23. *Parent* means:
- a. A biological or adoptive parent of a child.
  - b. A foster parent may act as a parent under this program so long as the foster parent has an ongoing, long-term parental relationship with the child, is willing to make the decisions required of parents under IDEA, and has no interest that would conflict with the interests of the child.
  - c. 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.
  - d. 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.
  - e. A surrogate parent who has been appointed in accordance with these policies and procedures or Part C of IDEA.
  - f. Except as provided in this section, the biological or adoptive parent, when attempting to act as the parent under Part C and when more than one party is qualified under 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.
  - g. If a judicial decree or order identifies a specific person or persons under 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 IDEA, except that if an EIS Program or service provider provides any services to a child or any family member of that child, that EIS Program or service provider may not act as the parent for that child. (34 CFR [§303.27](#))
24. *Parent Training and Information Center* means a parent center assisted under IDEA. In Alaska, this center is administered by the private, non-profit Stone Soup Group. (34 CFR [§303.28](#))

25. *Part C of IDEA* means the Infants and Toddlers with Disabilities Program under the Individuals with Disabilities Education Act at 20 U.S.C. 1431-1443, as amended.
26. *Personally Identifiable Information* means personally identifiable information as defined in 34 CFR §99.3, as amended, except that the term “student” in the definition of personally identifiable information in 34 CFR §99.3 means “child” as used in Part C of IDEA and any reference to “school” means “service provider” as used in Part C of IDEA. (34 CFR [§303.29](#))
27. *Public Agency* means the lead agency and any other agency or political subdivision of the State as used in Part C of IDEA. (34 CFR [§303.30](#))
28. *Qualified Personnel* means personnel who have met Alaska’s 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. (34 CFR [§303.31](#))
29. *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 IDEA, any reference to “education activities and programs” refers to “early intervention services.” (34 CFR [§303.32](#))
30. *Secretary* means the Secretary of Education. (34 CFR [§303.33](#))
31. *State* means Alaska, except as provided in these policies and procedures, regarding State allotments under Part C of IDEA.(34 CFR [§303.35](#))
32. *State Educational Agency or SEA* means the Alaska Department of Education and Early Development (EED) that is primarily responsible for the State supervision of public elementary schools and secondary schools. (34 CFR [§303.36](#))
33. *Ward of the State* –
  - a. General - Subject to (b) below, ward of the State means a child who, as determined by Alaska, is:
    - i. A foster child;
    - ii. A ward of Alaska; or
    - iii. 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 this section. (34 CFR [§303.37](#))

**C. Service Coordination Services** (34 CFR [§303.34](#))

1. In Alaska service coordination services are called family service coordinator (FSC) services.
2. As used in Part C of IDEA, FSC services mean services provided by a FSC to assist and enable an infant or toddler with a disability and the child’s family to receive

the services and rights, including procedural safeguards, required under Part C of IDEA.

3. The DHSS EI/ILP has established and implemented these policies and procedures for family service coordination based upon best practice standards. The family service coordinator strives to assist and enable a child eligible under Part C and the child's family to receive the rights, procedural safeguards, and services that are authorized under Alaska's EIS Programs. In providing this service the FSC promotes the integration of families and children into their community and promotes the use of natural support systems.
4. Each infant or toddler with a disability and the child's family must be provided with one FSC. The family assists in the selection of the FSC, who is responsible for:
  - a. Coordinating all services required under Part C of IDEA across agency lines; and
  - b. Serving as the single point of contact for carrying out the activities described in this section.
5. Family service coordination is an active, ongoing process that involves:
  - a. Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under Part C of IDEA; and
  - b. Coordinating the other services identified in the IFSP that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.
6. Specific FSC services include:
  - a. 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 service providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;
  - b. 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;
  - c. Coordinating evaluations and assessments;
  - d. Facilitating and participating in the development, review, and evaluation of IFSPs;
  - e. Conducting referral and other activities to assist families in identifying available service providers;

- f. Coordinating, facilitating, and monitoring the delivery of services required under Part C of IDEA to ensure that the services are provided in a timely manner;
  - g. Conducting follow-up activities to determine that appropriate Part C services are being provided;
  - h. Informing families of their rights and procedural safeguards, as set forth in these policies and procedures and related resources;
  - i. Coordinating the funding sources for services required under this Part C of IDEA; and
  - j. Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.
- 7. Through all phases of service delivery, the FSC is responsive to the needs and desires of the family. DHSS EI/ILP has written policies regarding the mission and philosophy of service and the role of the FSC.
- 8. Each EIS Program provides training and measures the FSC level of understanding of the philosophy of service and the FSC role.
- 9. Each EIS Program employs self-evaluation methods that families are invited to participate in to evaluate the agency's responsiveness to family's needs
- 10. Qualifications for FSCs:
  - a. In accordance with the EI/ILP Roles and Responsibilities chart, FSCs must be persons who, consistent with Part C of IDEA, have demonstrated knowledge and understanding about:
    - i. Infants and toddlers who are eligible under Part C of IDEA;
    - ii. The Part C statute and regulations in this part; and
    - iii. The nature and scope of services available under Alaska's early intervention and early learning program, the System of Payments for services in Alaska, and other pertinent information.
  - b. FSCs must meet minimum State requirements outlined by DHSS EI/ILP in the roles and responsibilities document (Attachment A).
  - c. The DHSS EI/ILP ensures that FSCs are employed consistent with State and Federal laws under Part C, receive training on interagency coordination of services, and are able to effectively carry out services and function on an interagency basis.
- 11. DHSS EI/ILP or an EIS Program's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort, including Title XIX of the Social Security Act—Medicaid, for purposes of claims in

compliance with the requirements of policies and procedures related to payor of last resort provisions.



## **VIII. Child Find, Evaluation, and Assessments (34 CFR §[303.300](#))**

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- A.** The statewide comprehensive, coordinated, multidisciplinary interagency system to provide early intervention services for infants and toddlers with disabilities and their families referenced in 34 CFR §[303.100](#) includes the following components:
  - 1. Pre-referral policies and procedures that include:
    - a. A public awareness program as described in 34 CFR §[303.301](#); and
    - b. A comprehensive Child Find system as described in 34 CFR §[303.302](#).
- B.** Referral policies and procedures as described in 34 CFR §[303.303](#).
- C.** Post-referral policies and procedures that ensure compliance with the timeline requirements in 34 CFR §[303.310](#) and include:
  - 1. Evaluations and assessments as described in 34 CFR §§[303.321](#) and [303.322](#); and
  - 2. Development, review, and implementation of IFSPs as described in 34 CFR §§[303.340](#) through [303.346](#).

## **IX. Public Awareness Program-Information for Parents** **(34 CFR §303.301)**

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- A. Preparation and Dissemination.** In accordance with 34 CFR §[303.116](#), DHSS EI/ILP ensures a public awareness program that:
1. Prepares information on the availability of early intervention services under Part C of IDEA, and other services, as described in paragraph (B) of this section; and
  2. Disseminates to all primary referral sources, especially hospitals and physicians, the information to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning or developmental complications; and
  3. Adopts procedures for assisting the primary referral sources described in 34 CFR §[303.303](#)(c) in disseminating the information described in paragraph (b) of this section to parents of infants and toddlers with disabilities.
- B. Information to be Provided.** The information required to be prepared and disseminated under (A) above includes:
1. A description of the availability of early intervention services under Part C of IDEA;
  2. A description of the Child Find system and how to refer a child under the age of three for an evaluation or early intervention services; and
  3. A central directory, as described in 34 CFR §[303.117](#) and in Section II.K of these policies and procedures.
- C. Information specific to toddlers with disabilities.** The public awareness program includes a requirement that DHSS EI/ILP provides for informing 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.
- D. Alaska's Public Awareness Program Procedures**
1. Through the DHSS EI/ILP and the Interagency Coordinating Council (ICC) activities, public awareness procedures are ongoing throughout Alaska including remote and rural areas.
  2. Public awareness procedures provide for the involvement of, and communication with, major organizations and public agencies at the State and local levels and include private providers, public health clinics, school districts, professional associations, parent groups, advocate associations, native health corporations and other organizations.

3. Media coverage is broad enough to reach the general public and includes information accessible to those who speak a language other than English and to persons with a communication disability.
4. Procedures include a variety of methods for informing the general public about the provisions of services. Examples include, but are not limited to:
  - i. Presentations at conferences for medical providers and periodic presentations at hospital grand rounds and All Alaska Pediatric Partnership (AAPP) meetings;
  - ii. Pamphlets and posters displayed in post offices, doctors' offices, clinics, hospitals and other appropriate locations;
  - iii. Health fair activities;
  - iv. Talks at public meetings;
  - v. Television, radio, and newspaper releases; and
  - vi. The DHSS EI/ILP Website, Facebook, and Youtube.
5. Developmental screening programs are announced at local communities, village councils, childcare facilities, preschool and Head Start programs, public health clinics, and other private agencies.
6. EIS Programs and other agencies providing early intervention are required to develop and distribute a brochure or flyer which explains the nature and scope of all available early intervention services, including referral, screening, identification, and follow-up services for all children at risk.
7. The Governor's Council on Disabilities and Special Education publication, Where to Turn, a resource available for all early intervention services, is available at each EIS Program.
8. The DHSS EI/ILP assumes the responsibility for the preparation and dissemination of information regarding the availability of early intervention services to parents and all primary referral sources. These sources include but are not limited to: parents, hospitals, public health nurses, physicians, school districts, health and social agencies, and village community health aides/practitioners (CHA/P).
9. A computerized central directory of services, as described in Section II.K of these policies and procedures, is available and includes special needs services as well as prenatal services and other maternal child health services statewide, in addition to medical services in the Seattle area.
10. A mechanism for measuring the effectiveness of public awareness activities is in place at both the local and State levels. The effectiveness is evaluated annually through program self-evaluation and State grantee monitoring. Program indicators and parent report mechanisms identify the referral sources and the percent of referrals.

## **X. Comprehensive Child Find System (34 CFR §303.302)**

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### **A. General.** Alaska EI/ILP includes a comprehensive Child Find system that:

1. Is consistent with Part B of IDEA (see 34 CFR §[300.111](#));
2. Includes a system for making referrals to Alaska EI/ILP under Part C of IDEA that:
  - i. Includes timelines; and
  - ii. Provides for participation by the primary referral sources described in 34 CFR §[303.303](#)(c);
  - iii. Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under Part C of IDEA that will reduce the need for future services; and
  - iv. Meets the requirements in paragraphs (B) and (C) of this section and 34 CFR §§[303.303](#), [303.310](#), [303.320](#), and [303.321](#).

### **B. Scope of Child Find.** DHSS EI/ILP, as part of the Child Find system, ensures that:

1. All infants and toddlers with disabilities in Alaska who are eligible for early intervention services under Part C of IDEA are identified, located, and evaluated, including:
  - a. American Indian or Alaska Native infants and toddlers with disabilities residing on a reservation geographically located in Alaska (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based, in part, on the information provided by them to DHSS EI/ILP under 34 CFR §[303.731](#)(e)(1));
  - b. Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and
  - c. Infants and toddlers with disabilities who are:
  - d. The subject of a substantiated case of child abuse or neglect; or
  - e. Identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure as required at 34 CFR §[303.303](#)(b).
2. An effective method is developed and implemented to identify children who are in need of early intervention services.

## C. Coordination

1. The DHSS EI/ILP requires coordination with all State and local agencies including regional native health corporations and other appropriate agencies to identify, locate, and evaluation all Part C eligible infants and toddlers in Alaska.
2. The DHSS EI/ILP, with the assistance of the Council, as defined in 34 CFR §[303.8](#), ensures that the Child Find system under Part C of IDEA:
  - a. Is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to Part C of IDEA, including Indian tribes that receive payments under Part C of IDEA, and other Indian tribes, as appropriate;
  - b. The Child Find activities and resultant data are collected and reviewed by the Alaska EI/ILP annually.
    - i. The EIS Program database collects information on each child enrolled in the Program. The information includes the services each eligible child is receiving and those services the child needs and is not receiving.
    - ii. The information is collected twice each year in December and June and is reviewed by ILP staff. The number of referrals made to the program and services provided are tabulated by region. Data is compared to the total population by region, using statistics from the Alaska Department of Labor or other census information to determine if an adequate number of children are being determined eligible for Part C services.
    - iii. The above information is available to OSEP upon request.
  - c. Is coordinated with the efforts of the:
    - i. The Alaska Department of Education and Early Development (EED);
    - ii. Maternal and Child Health Program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act, as amended, (MCHB or Title V) (42 U.S.C. 701(a));
    - iii. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));
    - iv. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
    - v. Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
    - vi. Supplemental Security Income Program under Title XVI of the Social Security Act (42 U.S.C. 1381);

- vii. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));
  - viii. Child care programs in Alaska;
  - ix. The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
  - x. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC);
  - xi. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);
  - xii. Tribes and tribal organization that receive money under Part C; and
  - xiii. Other tribes and tribal organizations as appropriate.
- d. DHSS EI/ILP, with the advice and assistance of the Council, takes steps to ensure that:
- i. There will not be unnecessary duplication of effort by the programs identified in paragraph (2)(c) of this section; and
  - ii. The State makes use of the resources available through each EIS Program and service provider in Alaska to implement the Child Find system in an effective manner.

### 3. Coordination Activities

- a. Child Find is coordinated and consistent with the EED Part B Child Find efforts.
- i. Policies of EED pertaining to Child Find give the DHSS EI/ILP the responsibility for identification, education and other services for children ages birth through age two years who experience disabilities. Local EIS Programs are required to meet at least annually with the local school district, Head Start programs and other early intervention service providers to coordinate Child Find activities.
  - ii. Procedures for Child Find by each EIS Program must include, at a minimum:
    - (1) An annual public notice of the early intervention needs of children with developmental delays, their rights to services, and the services available to them within that area;
    - (2) Screening services; and
    - (3) Referral system for evaluation of children screened and determined to be in need of early intervention services.

- b. Coordination of Child Find with the Maternal Child Health programs under Title V of the Social Security Act.
  - i. The State Health Care Program for Children with Special needs (HCP-CSN) is funded through Title V and State revenues. All children under the age of three not currently receiving infant learning or early intervention services but enrolled in the HCP-CSN are provided with information on the services available through the EIS Programs. Parents interested in services are referred to a local EIS Program to determine eligibility for services. Applications to HCP-CSN are made through local public health nurses.
- c. Child Find is coordinated with the Early Periodic Screening, Diagnosis and Treatment (EPSDT) program.
  - i. When a child's developmental progress is in question during an EPSDT exam, a developmental screening may be completed during the exam and/or as appropriate, a referral for evaluation is made to the local EIS Program as soon as possible but in no case later than seven days.
  - ii. Children are identified through EPSDT services are referred to the appropriate EIS Programs for eligibility determination.
  - iii. With parental consent, the health screening and developmental form completed during an EPSDT, or well child exam will follow or accompany the referral to the local EIS Program.
  - iv. Training on child identification, developmental screening, and referral procedures for public health nurses EPSDT exams is provided to the Section of Nursing at regional and periodic training sessions.
- d. Child Find activities are coordinated at a policy level through the State Interagency Coordinating Council (ICC), the Governor's Council on Disabilities and Special Education. The Governor's Council reviews all Alaska DHSS EI/ILP plans involving services to individuals experiencing developmental disabilities for duplication of efforts and/or missing components in the Child Find system.
- e. Coordination of Child Find efforts with the Head Start Program.
  - i. At least annually, the local EIS Program meets with the Head Start Disabilities Coordinator and the LEA Special Education Director to plan collaborative Child Find activities within their geographic region.
  - ii. Referral and Child Find information is given to the local and State Head Start Disabilities Coordinator to facilitate referrals of children under the age of three for early intervention services.
- f. Child Find activities are coordinated with the DHSS EI/ILP.

- i. Child Find and referral information are distributed to the DHSS child care licensing program, the foster care program, and the high risk unit on the State level and any local DHSS offices through the local EIS Program or early intervention service provider.
  - g. Hospitals and public health agencies collaborate in the ongoing efforts to track high-risk conditions at birth, such as prematurity, prenatal infection, and substance abuse.
- 4. The DHSS EI/ILP (with assistance from the ICC) requires that:
  - a. The Early Intervention System, through collaborative efforts outlined above, avoids unnecessary duplication of efforts by agencies involved in Alaska's Child Find system; and
  - b. Through the steps delineated ensure the full use of resources available through each public agency in the State to implement the Child Find System in an effective manner.



## **XI. Referral Procedures**

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### **A. General** (34 CFR §[303.303](#)(a))

1. The DHSS EI/ILP Child Find system described in 34 CFR §[303.302](#) includes the State's procedures for use, by primary referral sources, for referring a child under the age of three to the Part C program.
2. The procedures required in (A)(1) above:
  - a. Provide for referring a child as soon as possible, but in no case more than seven days, after the child has been identified; and
  - b. Meet the requirements in paragraphs (B) and (C) below.

### **B. Referral of specific at-risk infants and toddlers** (34 CFR §[303.303](#)(b))

1. The procedures required in (A) above provide for requiring the referral of a child under the age of three who:
  - a. Is the subject of a substantiated case of child abuse or neglect; or
  - b. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

### **C. Primary referral sources**, as used in Part C of IDEA, 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 or day care programs and early learning programs;
5. Local educational agencies (school districts) and schools;
6. Public health facilities;
7. Native community and health services;
8. Other public health or social service agencies;
9. Military clinics and hospitals;
10. Other clinics and health care providers;
11. Public agencies and staff in the child welfare system, including child protective service and foster care;
12. Child advocates;
13. Homeless family shelters; and
14. Domestic violence shelters and agencies. (34 CFR §[303.303](#)(c))

#### **D. Procedures to refer a child to the appropriate public agency**

1. The DHSS EI/ILP, through the Request for Proposal (RFP) process, requires EIS Programs to contact all primary referral sources in writing to provide instructions on how to make referrals of identified infants and toddlers to State-funded agencies, and a description of the available early intervention services. The EIS Programs send letters to all primary referral sources in their geographic service regions with instructions and forms on the referral process and available services. In addition, in the very remote regions of Alaska, notification can be done through PSAs on the radio, and RATNET satellite television network. Posters and notices are also placed in community locations: Laundromats, bingo parlors, grocery stores, the post office, etc., to reach those families who do not have frequent access to health agencies. The RFP process instructs EIS Programs on procedures for referring a child for services including:
  - a. How the written referral is to be given to the early intervention service provider;
  - b. How the evaluation and assessment procedures are conducted and consistent with State and Federal law;
  - c. The provision of IFSP and early intervention services in accordance with State and Federal law;
  - d. A request to all referring agencies, explaining the requirement to refer a family as soon as possible but in no case more than seven days after a child has been identified.
  - e. How to make referrals through DHSS EI/ILP, to a local EIS Program when the referral source is unfamiliar with local programs or lives in a remote village.
2. Locally, EIS Programs will utilize referral procedures that comply with the requirements of IDEA and will inform those making the referral (parents, child care programs, public and private physicians, municipal and borough government health and education programs and other relevant agencies, individuals and organizations) of the local referral procedures and the availability of the toll free number.
3. Local EIS Programs are responsible to provide training and appropriate materials (i.e., brochures and posters) to the primary referral sources in (C).
4. The Alaska EI/ILP reviews the efficacy of the Child Find system through a compliance review of the EI/ILP services in all geographic regions. Evaluative procedures measure the referral sources, the percentage of total population referred, the type and source of information families receive on early intervention services, and the accountability of services.

**E. Post-Referral Timeline** (34 CFR §[303.310](#))

1. Except as provided in (2) below, the initial evaluation and the initial assessments of the child and family under 34 CFR §[303.321](#), and the initial IFSP meeting under 34 CFR §[303.342](#) must be completed within 45 days from the date DHSS EI/ILP or EIS Program receives the referral of the child. The State staff, in monitoring and reviewing EIS Programs, requires that when a program receives a referral, it shall, within 45 calendar days:
  - a. Appoint a family service coordinator as soon as possible after receipt of a referral.
  - b. Complete the evaluation and assessment activities in Part C;
  - c. Hold a meeting to develop the IFSP, in accordance with IDEA; or
  - d. Document the justifications for a reasonable delay (see 2 below).
2. The 45-day timeline described in (1) above does not apply for any period when:
  - a. The child or parent is unavailable to complete the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
  - b. The parent has not provided consent for initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by an EIS Program or service provider to obtain parental consent.
3. The DHSS ensures that, in the event the circumstances described in (2) above exist, the service provider must:
  - a. Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the service provider to obtain parental consent;
  - b. Complete the initial evaluation, the initial assessments of the child and family, and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in (b) above no longer exist or parental consent is obtained for the initial evaluation and the initial assessment of the child; and
  - c. Develop and implement an interim IFSP, to the extent appropriate and consistent with 34 CFR §[303.345](#).
  - d. Conduct the initial family assessment within the 45-day timeline in (1) above if the parent concurs and even if other family members are unavailable.
4. If EIS Programs are not in compliance with the above requirements, a negotiated agreement is reach with the program outlining compliance. Lack of compliance with such requirements can result in reduced funding to an EIS Program over time.

## **XII. Evaluation of the Child and Assessment of the Child and Family**

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### **A. Assurance (34 CFR §[303.321](#)(a))**

1. The DHSS EI/ILP ensures that, subject to obtaining parental consent in accordance with 34 CFR §[303.420](#)(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability receives:
  - a. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with this section unless eligibility is established under Item C(1) of this section.
  - b. If the child is determined eligible as an infant or toddler with a disability, as defined in Item II (E), Eligibility Criteria:
    - i. A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs; and
    - ii. A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described below and may occur simultaneously with the evaluation, provided that the requirements of this section are met.
2. The DHSS/EIILP ensures that all public agencies and service providers in the State of Alaska who provide evaluation and assessment to eligible children, conduct those evaluations and assessments in accordance with State and Federal law.
  - a. Each local EIS program has procedures in place to ensure the performance of a timely, comprehensive, multidisciplinary evaluation and family-directed assessment of each child, birth through age three referred for evaluation or early intervention services.
  - b. DHSS EI/ILP shall be responsible for ensuring that all affected public agencies and service providers in Alaska implement the requirements of this section.

### **B. Definitions**

1. *Assessment* means the ongoing procedures used by qualified personnel throughout the period of the child's eligibility to identify (1) a multidisciplinary assessment of the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under Part C; and (2) a family directed assessment of the resources, priorities, and concerns of the family and the supports and services necessary to

enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability. This includes assessment of the child, consistent with 34 CFR §[303.321](#)(c)(1) and assessment of the child's family consistent with 34 CFR §[303.321](#)(c)(2). (34 CFR §[303.321](#)(a)(2)(ii))

2. *Evaluation* means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of infant or toddler with a disability in 34 CFR §[303.21](#), including determining the status of the child in each of the defined developmental areas. (34 CFR §[303.321](#)(a)(2)(i))
3. *Initial assessment* refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting. (34 CFR §[303.321](#)(a)(2)(iii))
4. *Initial evaluation* refers to the child's evaluation to determine his or her initial eligibility under Part C. (34 CFR §[303.321](#)(a)(2)(i))
5. *Multidisciplinary* means the involvement of two or more separate disciplines or professions with respects to:
  - a. Evaluation of the child in 34 CFR §§[303.113](#) and [303.321](#)(a)(1)(i) and assessment of the child and family in 34 CFR §[303.321](#)(a)(1)(ii), may include one individual who is qualified in more than one discipline or profession; and
  - b. The IFSP team in 34 CFR §[303.340](#) must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the services coordinator (consistent with 34 CFR §[303.343](#) (a)(1)(iv)). (34 CFR §[303.24](#))

### **C. Evaluation and Assessment Policies and Procedures**

1. *Use of medical or other records to establish eligibility.* (34 CFR §[303.321](#)(a)(3)(i))A child's medical and other records may be used to establish eligibility, without conducting an evaluation of the child, under Part C of IDEA if those records indicate that the child's level of functioning in one or more of the developmental areas identified in Section II(E)(4)(a) of these policies and procedures and 34 CFR §[303.21](#)(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under Section II(E) of these policies and procedures. In accordance with the following Alaska procedures:
  - a. A multidisciplinary team of practitioners must determine eligibility within a diagnosed physical or mental condition category based on a statement or report signed by a medical professional, as appropriate to the suspected disability, indicating the condition that is likely to result in developmental delay.
  - b. The multidisciplinary team must consider the report or statement required under (a) above with respect to the types and amounts of services that a child and/or his or her family should receive through the early intervention

system but the team shall not use the report or statement as the sole basis by which it determines the services approved through the IFSP process.

- c. If the child's Part C eligibility is established under this section, the service provider must conduct assessments of the child and family with parental consent.
- 2. *Informed clinical opinion.* (34 CFR §[303.321](#)(a)(3)(ii)) Qualified personnel must use informed clinical opinion (as defined in Section II(E)(2)(e) of these policies and procedures) when conducting an evaluation and assessment of the child. In addition, the DHSS EI/ILP ensures that informed clinical opinion may be used as an independent basis to establish a child's eligibility under Part C of IDEA even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under section (5) below.
- 3. *Nondiscriminatory procedures.* (34 CFR §[303.321](#)(a)(4)) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.
  - a. Early intervention practices reflect respect and awareness for the diversity of families' roles, values, coping styles and ethnicity.
  - b. The Alaska DHSS EI/ILP has established the following non-discriminatory evaluation and assessment procedures that all public agencies responsible for evaluation and assessment ensure that at a minimum:
    - i. Tests and other evaluation materials are administered in the native language of the individual being tested or evaluated, unless it is clearly not feasible to do so;
    - ii. Any assessment/evaluation procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory;
    - iii. No single procedure is used as the sole criterion for determining a child's eligibility; and
    - iv. Evaluations and assessments are conducted by qualified personnel.
- 4. *Native Language.* (34 CFR §[303.321](#)(a)(5) and (6))
  - a. All evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of native language in 34 CFR §[303.25](#) and Section VII(B)(22) of these policies and procedures, unless clearly not feasible to do so.
  - b. Family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of native language in 34 CFR §[303.25](#), unless clearly not feasible to do so.

5. *Procedures for evaluation of the child.* (34 CFR §[303.321\(b\)](#)) In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under Part C of IDEA. Procedures must include:
  - a. Administering an evaluation instrument;
  - b. Taking the child's history (including interviewing the parent);
  - c. Identifying the child's level of functioning in each of the following developmental areas (34 CFR §[303.21\(a\)\(1\)](#)):
    - i. Cognitive development;
    - ii. Physical development, including vision and hearing;
    - iii. Communication development;
    - iv. Social or emotional development; and
    - v. Adaptive development.
  - d. 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; and
  - e. Reviewing medical, educational, or other records.
6. *Procedures for assessment of the child and family.* (34 CFR §[303.321\(c\)](#) and (d)) An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:
  - a. A review of the results of the evaluation conducted under (5) of this section;
  - b. Personal observations of the child; and
  - c. The identification of the child's needs in each of the developmental areas in (5)(c) above (34 CFR §[303.21\(a\)\(1\)](#)).
7. *A family-directed assessment* must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family service coordinator conducts a family-directed assessment that is:
  - a. Voluntary on the part of each family member participating in the assessment;
  - b. Based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment;

- c. Includes the family's description of its resources, priorities and concerns related to enhancing the child's development; and
- d. Designed to identify the needs of each child's family to appropriately assist in the development of the child.

- D. Determination that a child is not eligible.** (34 CFR §[303.322](#)) If, based on the evaluation conducted under 34 CFR §[303.321](#), the EIS Program determines that a child is not eligible under Part C of IDEA, the EIS Program must provide the parent with prior written notice required in 34 CFR §[303.421](#), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under 34 CFR §[303.430](#), such as requesting a due process hearing or mediation or filing a State complaint.
- E. Transfer between EIS Programs.** When a child transfers from one EIS Program to another within Alaska, the receiving program may use the evaluations and assessments conducted in the prior program to establish eligibility.



### **XIII. Individualized Family Service Plans (34 CFR §§303.340 - 303.346)**

#### **A. Purpose and Overview**

1. The development of a collaborative, comprehensive Individual Family Service Plan (IFSP) offers to parents the opportunity and provides a mechanism to plan, coordinate, evaluate and individualize services. It is a partnership agreement between families and professionals that assures:
  - a. The family's strengths will be recognized and built on;
  - b. The family's needs will be identified in a way that respects their values and beliefs;
  - c. The family's hopes and aspirations will be supported and encouraged; and
  - d. The family will be assisted in meeting their needs in an agreed upon individualized plan.
2. The IFSP is based on the multidisciplinary evaluation and assessment and is designed to enhance the capacities of families to meet the special needs of their children. This purpose is achieved by offering families support in assessing, identifying, and obtaining needed services for both their child and their family.
3. The development, implementation, and evaluation of the IFSP with the family are ongoing processes that are designed to meet the needs of families and infant and toddlers with disabilities. Individual components of the process reflect the mission and principles of service delivery guiding each step.

#### **B. Assurances**

1. For each infant or toddler with a disability, the DHSS EI/ILP ensures the development, review, and implementation of an individualized family service plan or IFSP developed by a multidisciplinary team, including the parent, that:
  - a. Is consistent with the definition of IFSP in (C) below;
  - b. Meets the requirements in 34 CFR §§[303.342](#) through [303.346](#); and
  - c. Is documented on the Alaska IFSP form. (34 CFR §[303.340](#))
2. The Alaska DHSS EI/ILP assures that all eligible children and their families are being provided services to develop and implement an IFSP and receive family service coordination services in accordance with Part C.
3. The Alaska DHSS EI/ILP assures that all eligible children and their families under Part C have in place an implemented IFSP, which includes the services necessary to enhance the child's development.

4. Each agency or person who has a direct role in the provision of infant learning services and related early intervention is responsible for making a good faith effort to assist each eligible child and family in achieving the outcomes in the IFSP.
5. If a dispute between agencies exists, the Alaska DHSS EI/ILP ensures that, as the Lead Agency, it shall resolve dispute, or assign responsibility for resolution of disputes between agencies regarding who has the responsibility for developing or implementing an IFSP.

#### C. Definition

1. *Individualized family service plan or IFSP* means a written plan for providing early intervention services to an infant or toddler with a disability under this part and the infant's or toddler's family that:
  - a. Is based on the evaluation and assessment described in Section XIII;
  - b. Includes the content specified in (F) below;
  - c. Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (consistent with §303.420); and
  - d. Is developed in accordance with the IFSP procedures in this section. (34 CFR [§303.20](#))

#### D. Procedures for IFSP Development, Review, and Evaluation

1. *Meeting to develop initial IFSP - timelines.* (34 CFR [§303.342\(a\)](#)) For a child referred to the Part C program and determined to be eligible under Part C of IDEA as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in 34 CFR [§303.310](#).
2. *Periodic review and annual meeting:*
  - a. **Periodic review.** (34 CFR [§303.342\(b\)](#)) A review of the IFSP for a child and the child's family must be conducted every six months or more frequently if conditions warrant, or if the family requests such a review.
    - i. The purpose of the periodic review is to determine:
      - (1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
      - (2) Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.
    - ii. The review may be carried out by a face-to-face meeting or by another means that is acceptable to the parents and other participants.
  - b. **Annual meeting to evaluate the IFSP.** (34 CFR [§303.342\(c\)](#)) A meeting must be conducted on at least an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any

current (conducted within the past 6 months) evaluations and other information available from the assessments of the child and family conducted under 34 CFR §[303.321](#) must be used in determining the early intervention services that are needed and will be provided.

- i. The purpose of the annual meeting is to use the current evaluation conducted under Part C to evaluate the achievement of the outcomes on the IFSP, to determine the degree to which progress is being made and identify necessary modifications or revisions of outcomes or services.
- 3. *Accessibility and convenience of meetings.* (34 CFR §[303.342](#)(d))
  - a. IFSP meetings must be conducted:
    - i. In settings and at times that are convenient for the family; and
    - ii. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.
  - b. Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.
- 4. *Parental consent.* (34 CFR §[303.342](#)(e))
  - a. The contents of the IFSP must be fully explained to the parents.
    - i. The DHSS EI/ILP has developed procedures and policies, disseminated information and provided training to ensure that the contents of the IFSP are fully explained to parents.
  - b. Informed written consent, as described in 34 CFR §[303.7](#), must be obtained, as required in 34 CFR §[303.420](#)(a)(3), prior to the provision of early intervention services described in the IFSP.
    - i. If the parents do not provide consent with respect to a particular early intervention service or withdraw consent after first providing it, that service may not be provided.
    - ii. However, the early intervention services for which parental consent is obtained must be provided.
  - c. Each early intervention service must be provided as soon as possible after the parent provides consent for that services, but no later than the start date on the IFSP, as required in 34 CFR §[303.344](#)(f)(1).

## **E. IFSP Team meeting and periodic review**

- 1. *Initial and annual IFSP Team meeting.* (34 CFR §[303.343](#)(a))
  - a. Each initial meeting and each annual IFSP Team meeting to evaluate the IFSP must include the following participants:

- i. The parent or parents of the child;
  - ii. Other family members, as requested by the parent, if feasible to do so;
  - iii. An advocate or person outside of the family, if the parent requests that the person participate;
  - iv. The family service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the EIS Program to be responsible for implementing the IFSP;
  - v. A person or persons directly involved in conducting the evaluations and assessments in 34 CFR [§303.321](#);
  - vi. As appropriate, persons who will be providing early intervention services under Part C to the child or family;
  - vii. At the parent's request, regional native association representatives; and
  - viii. At least two different disciplines or professions must be represented at the initial evaluations and for the development of the IFSP.
- b. If a person listed in (I)(a)(v) is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:
    - i. Participating in a telephone conference call;
    - ii. Having a knowledgeable authorized representative attend the meeting; or
    - iii. Making pertinent records available at the meeting.
- 2. *Periodic review.* (34 CFR [§303.343\(b\)](#)) Each periodic review under 34 CFR [§303.342\(b\)](#) must provide for the participation of persons in (I)(a)(1) – (I)(a)(4). If conditions warrant, provisions must be made for the participation of other representatives identified in the above paragraphs.

#### **F. Content of an IFSP**

- 1. *Information about the child's status.* (34 CFR [§303.344\(a\)](#)) The IFSP must include a statement of the infant or toddler with a disability's present levels (which are based upon professionally accepted object criteria) of physical development, including vision, hearing, and health status, cognitive development, communication development, social or emotional development, and adaptive development based on the information from that child's evaluation and assessments conducted under 34 CFR [§303.321](#).
- 2. *Family information.* (34 CFR [§303.344\(b\)](#)) With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns

related to enhancing the development of the child as identified through the assessment of the family under 34 CFR §[303.321\(c\)\(2\)](#).

3. *Results or outcomes.* (34 CFR §[303.344\(c\)](#)) The IFSP must include a statement of the measurable results or measurable outcomes expected to be achieved for the child, including pre-literacy and language skills, as developmentally appropriate for the child, and family, and the criteria, procedures, and timelines used to determine:
  - a. The degree to which progress toward achieving 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.* (34 CFR §[303.344\(d\)](#))
  - a. The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research, to the extent practicable, that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in (3) above, including:
    - i. The length, duration, frequency, intensity, and method of delivering the early intervention services;
    - ii. A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with 34 CFR §§[303.13\(a\)\(8\)](#), [303.26](#) and [303.126](#), or, subject to (iii) below, a justification as to why an early intervention service will not be provided in the natural environment.
    - iii. The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be:
      - (1) Made by the IFSP Team, which includes the parent and other team members;
      - (2) Consistent with the provisions in 34 CFR §§[303.13\(a\)\(8\)](#), [303.26](#), and [303.126](#); and
      - (3) Based on the child's outcomes that are identified by the IFSP Team in (3) above;
    - iv. The location of the early intervention services; and
    - v. The payment arrangements, if any.

- b. As used in (4)(a)(i) above:
  - i. *Frequency* and *intensity* mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;
  - ii. *Method* means how a service is provided;
  - iii. *Length* means the length of time the service is provided during each session of that service, such as an hour or other specified time period; and
  - iv. *Duration* means projecting when a given service will no longer be provided, such as when the child is expected to achieve the results or outcomes in his or her IFSP
  - v. *Location* means the actual place or places where a service will be provided.
- c. The IFSP for each child and family will contain a statement of the natural environment in which early intervention services shall be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment
  - i. Natural Environments. Each Individualized Family Service Plan (IFSP) meeting will include discussion to identify the natural environments in which early intervention services will be provided for the child and family. The IFSP team will consider the following information to determine the most appropriate setting for early intervention services:
    - (1) Settings in which the child and family currently spend time.
    - (2) Settings for early intervention services preferred by the family, based on the child's needs.
    - (3) Any circumstances or barriers that may prevent services from being provided in settings preferred by the family.
    - (4) Strategies to enable the child and family to participate in services in settings that meet their needs.
- 5. For children who are at least three years of age, the IFSP must include an education component that promotes school readiness and incorporated pre-literacy, language, and numeracy skills.
- 6. *Other services.* (34 CFR §[303.344](#)(e))
  - a. To the extent appropriate, the IFSP also must:
    - i. Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under Part C of IDEA. This includes non-routine medical and

other related services for the child that are not required by the law but need to be included to make the plan complete.

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

7. *Dates and duration of services.* (34 CFR §[303.344](#)(f))

a. The IFSP must include:

- i. The projected date for the initiation of each early intervention service in (4)(a) above, which date must be as soon as possible after the parent consents to the service, as required in 34 CFR §§[303.342](#)(e) and [303.420](#)(a)(3); and
- ii. The anticipated duration of each service.

8. *Family services coordinator.* (34 CFR §[303.344](#)(g)) The IFSP must include the name of the family service coordinator from the profession most relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities under Part C of IDEA, who will be responsible for implementing the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons. In meeting the requirements, the term "profession" includes "service coordination." This person may be the individual appointed when the child was initially referred for an evaluation or appointed as a new service coordinator to implement the IFSP.

9. *Transition from Part C Services.* (34 CFR §[303.344](#)(h)) (See Section IV, Transition to Preschool and Other Programs.)

a. The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with 34 CFR §§[303.209](#) and [303.211](#)(b)(6), from Part C services to:

- i. Preschool services under Part B of IDEA, to the extent that those services are appropriate; or
- ii. Other appropriate services.

b. The steps required in (a) above must include:

- i. Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;
- ii. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
- iii. Confirmation that Child Find information about the child has been transmitted to the LEA or other relevant agency, in accordance with Section IV(C) of these policies and procedures and the Alaska opt-out

policy adopted under 34 CFR §[303.401\(e\)](#)) and, with parental consent if required under 34 CFR §[303.414](#), transmission of additional information needed by the LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with 34 CFR §§[303.340](#) through [303.345](#); and

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

**G. Interim IFSPs: Provision of Services Before Evaluations and Assessments are Completed** (34 CFR §[303.345](#))

- 10. Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessments in 34 CFR §[303.321](#), if the following conditions are met:
  - a. Parental consent is obtained.
  - b. An interim IFSP is developed that includes:
    - i. The name of the service coordinator who will be responsible, consistent with 34 CFR §[303.344\(g\)](#), for implementing the interim IFSP and coordinating with other agencies and persons; and
    - ii. The early intervention services that have been determined to be needed immediately by the child and the child's family.
    - iii. Evaluations and assessments are completed within the 45-day timeline in 34 CFR §[303.310](#).

**H. Transfer between EIS Programs.** When a child transfers from one EIS Program to another within Alaska, the receiving program may use the IFSP developed by the prior program to provide early intervention services. The IFSP date for purposes of setting dates for required IFSP reviews is the date established by the sending EIS Program.

**I. Responsibility and Accountability** (34 CFR §[303.346](#)) Each EIS Program or service 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 IDEA does not require that any EIS Program or service provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.



## **XIV. Procedural Safeguards**

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### **A. General Responsibilities of Alaska DHSS EI/ILP for procedural safeguards - Assurances.** (34 CFR §[303.400](#))

1. The DHSS EI/ILP:
  - a. Ensures the establishment and implementation of procedural safeguards that meet the requirements of Part C of IDEA, including the provisions on confidentiality in 34 CFR §§[303.401](#) through 303.417, parental consent and notice in 34 CFR §§[303.420](#) and [303.421](#), surrogate parents in 34 CFR §[303.422](#), and dispute resolution procedures in 34 CFR §[303.430](#).
  - b. Ensures the effective implementation of the procedural safeguards by each participating agency, including DHSS EI/ILP and EIS Programs, in the statewide system that is involved in the provision of early intervention services under Part C of IDEA through the following procedures:
    - i. Allowing parties to resolve disputes through a mediation process which at a minimum shall be available whenever a hearing is requested;
    - ii. Applying a due process hearing procedure that is accessible to all families receiving or being denied early intervention services; and
    - iii. Providing training to all early intervention service providers to ensure that the rights of infants and toddlers and of their families are protected.
  - c. Make available to parents an initial copy of the child's early intervention record, at no cost to the parents.

### **B. Confidentiality of Personally Identifiable Information and Early Intervention Records**

1. *Confidentiality and Opportunity to Examine Records*
  - a. **General.** (34 CFR §[303.401](#)(a)) The DHSS EI/ILP ensures that the parents of a child referred under Part C of IDEA are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.
  - b. **Confidentiality procedures.** (34 CFR §[303.401](#)(b)) As required under IDEA, the regulations in 34 CFR §§[303.401](#) through [303.417](#) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to Part C of IDEA by the Secretary and by participating agencies, including the DHSS EI/ILP and EIS Programs, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. Alaska has procedures in effect to ensure that:

- i. Participating agencies, including the DHSS EI/ILP and EIS Programs, comply with the Part C confidentiality procedures in 34 CFR §§[303.401](#) through [303.417](#); and
  - ii. The parents of infants or toddlers who are referred to, or receive services under Part C of IDEA, are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under Part C of IDEA, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under Part C of IDEA.
- c. **Applicability and timeframe of procedures** (34 CFR §[303.401](#)(c))
- i. The confidentiality procedures described in this section apply to the personally identifiable information of a child and the child's family that:
    - (1) Is contained in early intervention records collected, used, or maintained under Part C of IDEA by the DHSS EI/ILP or an EIS Program; and
    - (2) Applies from the point in time when the child is referred for early intervention services under Part C of IDEA until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and State laws.
- d. **Disclosure of information** (34 CFR §[303.401](#)(d))
- i. Subject to (e) below, the Alaska EI/ILP discloses to the SEA and the LEA where the child resides, in accordance with 34 CFR §[303.209](#)(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under the IDEA:
    - (1) A child's name;
    - (2) A child's date of birth; and
    - (3) Parent contact information, including parents' names, addresses, and telephone numbers.
  - ii. The information described in (d) above is needed to enable the DHSS EI/ILP, as well as LEAs and SEAs under Part B of the IDEA, to identify all children potentially eligible for services under 34 CFR §[303.211](#) and Part B of the IDEA.

- e. **Option to inform a parent about intended disclosure** (34 CFR §[303.401](#)(e))
  - i. The DHSS EI/ILP, through its policies and procedures, requires EIS Programs, prior to making the limited disclosure described in (d), to inform parents of a toddler with a disability of the intended disclosure and allow the parents a specified time period to object to the disclosure in writing.
  - ii. If a parent objects during the time period provided by the Alaska EI/ILP program, the DHSS EI/ILP and EIS Program are not permitted to make such a disclosure under (d) above and 34 CFR §[303.209](#)(b)(1)(i) and (b)(1)(ii).

**C. Definitions** (34 CFR §[303.403](#))

- 1. The following definitions apply to 34 CFR §§[303.402](#) through 303.417 in addition to the definition of personally identifiable information in 34 CFR §[303.29](#) and disclosure in 34 CFR §99.3:
  - a. *Destruction* means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under 34 CFR §[303.29](#).
  - b. *Early intervention records* mean all records regarding a child that are required to be collected, maintained, or used under Part C of the IDEA and the regulations in Part C.
  - c. *Participating agency* means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of the IDEA and the regulations in Part C of IDEA with respect to a particular child. A participating agency includes DHSS EI/ILP, EIS Programs and any individual or entity that provides any Part C services, including service coordination, evaluations and assessments, and other Part C services, but does not include primary referral sources, or public agencies (such as the State Medicaid or CHIP program) or private entities that act solely as funding sources for Part C services.

**D. Notice to Parents** (34 CFR §[303.404](#))

- 1. DHSS EI/ILP or its EIS Programs must give notice when a child is referred under Part C of IDEA that is adequate to fully inform parents about the requirements in 34 CFR §[303.402](#), including:
  - a. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods Alaska intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;

- b. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;
- c. A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions in 34 CFR §§[303.401](#) through [303.417](#); and
- d. A description of the extent that the notice is provided in the native languages of the various population groups in Alaska.

**E. Access Rights** (34 CFR §[303.405](#))

- 1. Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under Part C of IDEA. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to 34 CFR §§[303.430](#)(d) and [303.435](#) through 303.439, and in no case more than 10 days after the request has been made.
- 2. The right to inspect and review early intervention records under this section includes:
  - a. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;
  - b. The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
  - c. The right to have a representative of the parent inspect and review the early intervention records.
- 3. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.

**F. Record of Access** (34 CFR §[303.406](#)) Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of the IDEA, except access by parents and authorized representatives and employees of the participating agency, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.

- G. Records on More Than One Child** (34 CFR §[303.407](#)) If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- H. List of Types and Locations of Information** (34 CFR §[303.408](#)) Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.
- I. Fees For records** (34 CFR §[303.409](#))
1. Each participating agency may charge a fee for copies of records that are made for parents under Part C of IDEA if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in (3) below.
  2. A participating agency may not charge a fee to search for or to retrieve information under Part C of IDEA.
  3. 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.
- J. Amendment of Records at a Parent's Request** (34 CFR §[303.410](#))
1. A parent who believes that information in the early intervention records collected, maintained, or used under Part C of IDEA is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.
  2. The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
  3. If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under 34 CFR §[303.411](#).
- K. Opportunity for a Hearing** (34 CFR §[303.411](#)) The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in 34 CFR §[303.430](#)(d)(1) provided that such hearing procedures meet the requirements of the hearing procedures in 34 CFR §[303.413](#) or may request a hearing directly under the Alaska procedures in 34 CFR §[303.413](#) (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR §99.22).

**L. Result of Hearing** (34 CFR §[303.412](#))

1. If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must amend the information accordingly and so inform the parent in writing.
2. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.
3. Any explanation placed in the early intervention records of the child under this section must:
  - a. Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency; and
  - b. If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.

**M. Hearing Procedures** (34 CFR §[303.413](#)) A hearing held under 34 CFR §[303.411](#) must be conducted according to the procedures under 34 CFR §99.22.

**N. Consent Prior to Disclosure or Use** (34 CFR §[303.414](#))

1. Except as provided in (2) below, prior parental consent must be obtained before personally identifiable information is:
  - a. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under Part C of IDEA, subject to (2) below; or
  - b. Used for any purpose other than meeting a requirement of Part C of IDEA.
2. DHSS EI/ILP or other participating agency may not disclose personally identifiable information, as defined in 34 CFR §[303.29](#), to any party except participating agencies, including DHSS EI/ILP and EIS Programs, that are part of Alaska's Part C system without parental consent unless authorized to do so under:
  - a. 34 CFR §§[303.401](#)(d), [303.209](#)(b)(1)(i) and (b)(1)(ii), and [303.211](#)(b)(6)(ii)(A); or
  - b. One of the exceptions enumerated in 34 CFR §99.31, where applicable to Part C, which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR §99.31 to Part C of IDEA, participating agencies must also comply with the pertinent conditions in 34 CFR §§99.32,

99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR section 99 to Part C, the reference to:

- i. 34 CFR §99.30 means 34 CFR §[303.414\(a\)](#);
  - ii. “Education records” means early intervention records under 34 CFR §[303.403\(b\)](#);
  - iii. “Educational” means early intervention under Part C of IDEA;
  - iv. “Educational agency or institution” means the participating agency under 34 CFR §[303.404\(c\)](#);
  - v. “School officials and officials of another school or school system” means qualified personnel or service coordinators under Part C of IDEA;
  - vi. “State and local educational authorities” means the Lead Agency under 34 CFR §[303.22](#); and
  - vii. “Student” means child under Part C of IDEA.
3. DHSS EI/ILP provides policies and procedures to be used when a parent refuses to provide consent under this section, such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under Part C of IDEA, provided that those procedures do not override a parent’s right to refuse consent under 34 CFR §[303.420](#).

**O. Safeguards** (34 CFR §[303.415](#))

4. Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.
5. One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.
6. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under 34 CFR §§[303.401](#) through [303.417](#) and 34 CFR part 99.
7. Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

**P. Destruction of Information** (34 CFR §[303.416](#))

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

2. Subject to (1) above, the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information, including address and phone number, names of service coordinator(s) and service provider(s), and exit data, including year and age upon exit, and any programs entered into upon exiting, may be maintained without time limitation.

**Q.** **Enforcement** (34 CFR §[303.417](#)) DHSS EI/ILP has in effect the policies and procedures, including sanctions and the right to file a complaint under 34 CFR §§[303.432](#) through [303.434](#), that the State uses to ensure that its policies and procedures, consistent with 34 CFR §§[303.401](#) through [303.417](#), are followed and that the requirements of IDEA and the regulations in Part C are met.



## **XV. Parental Consent and Notice**

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### **A. Parental Consent and Ability to Decline Services (34 CFR §[303.420](#))**

1. The DHSS EI/ILP ensures written parental consent is obtained before:
  - a. All evaluations and assessments of a child are conducted under 34 CFR [§303.321](#);
  - b. Early intervention services are provided to the child under Part C of IDEA;
  - c. Public benefits or insurance or private insurance is used if such consent is required under 34 CFR [§303.520](#); and
  - d. Disclosure of personally identifiable information consistent with 34 CFR [§303.414](#).
2. If a parent does not give consent under (1)(a) or (1)(b) above, the service provider must make reasonable efforts to ensure that the parent:
  - a. Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and
  - b. Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.
3. The DHSS EI/ILP may not use the due process hearing procedures under Part C or Part B of IDEA to challenge a parent's refusal to provide any consent that is required under (1) above.
4. The parents of an infant or toddler with a disability has the right to determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under Part C at any time, in accordance with Alaska State law; and may decline a service after first accepting it, without jeopardizing other early intervention services under Part C of IDEA.

### **B. Prior Written Notice and Procedural Safeguards Notice**

1. *General.* (34 CFR [§303.421](#)(a)) Prior written notice must be provided to parents a reasonable time before the DHSS EI/ILP 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.
2. *Content of the notice.* (34 CFR [§303.421](#)(b)) The notice must be in sufficient detail to inform parents about:
  - a. The action that is being proposed or refused;
  - b. The reasons for taking the action; and

- c. All procedural safeguards that are available under this subpart, including a description of mediation in 34 CFR §[303.431](#), how to file a State complaint in 34 CFR §§[303.432](#) through [303.434](#) and a due process complaint in the provisions adopted under 34 CFR §[303.430](#)(d), and any timelines under those procedures.
- 3. *Native language.* (34 CFR §[303.421](#)(c))
  - a. The notice must be:
    - i. Written in language understandable to the general public; and
    - ii. Provided in the native language, as defined in 34 CFR §[303.25](#), of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
  - b. If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS Program 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.
  - c. If the parent experiences a visual or hearing impairment, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).

## **XVI. Surrogate Parents**

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### **A. General** (34 CFR §[303.422\(a\)](#))

1. DHSS EI/ILP or other public agency ensures that the rights of a child are protected when:
  - a. No parent, as defined in 34 CFR §[303.27](#), can be identified;
  - b. DHSS EI/ILP or other public agency, after reasonable efforts, cannot locate a parent; or
  - c. The child is a ward of the State under the laws of Alaska.

### **B. Duty of Lead Agency and Other Public Agencies** (34 CFR §[303.422\(b\)](#))

1. The duty of DHSS EI/ILP or other public agency includes the assignment of an individual to act as a surrogate for the parent. The Alaska assignment process includes:
  - a. Determining whether a child needs a surrogate parent. If no parent can be located or a court record verifies that the child is a ward of the State, the local EIS Program will recommend to the Department a name of a surrogate parent; and
  - b. The DHSS EI/ILP State Coordinator will assign a surrogate parent to the child.
2. In implementing the provisions under this section for children who are wards of the State or placed in foster care, the service coordinator must consult with the public agency that has been assigned care of the child.

### **C. Wards of the State** (34 CFR §[303.422\(c\)](#)) In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the DHSS EI/ILP, may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in (D)(2)(a) and (E).

### **D. Criteria for Selection of Surrogate Parents** (34 CFR §[303.422\(d\)](#))

1. DHSS EI/ILP or other public agency may select a surrogate parent in any way permitted under State law.
2. Public agencies must ensure that a person selected as a surrogate parent:
  - a. Is not an employee of DHSS EI/ILP or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;
  - b. Has no personal or professional interest that conflicts with the interest of the child he or she represents;
  - c. Has knowledge and skills that ensure adequate representation of the child.

- d. When possible, the following are considered in the selection of a surrogate parent:
  - i. Cultural similarities;
  - ii. Religious similarities;
  - iii. Age preferences of surrogate and child;
  - iv. Language compatibility; and
  - v. The availability of the child's family, foster parents, or longtime family friend is preferable to individuals who have never met the child.

**E. Non-employee requirement compensation** (34 CFR §[303.422](#)(e)) A person who is otherwise qualified to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

**F. Surrogate Parent Responsibilities** (34 CFR §[303.422](#)(f))

- 1. The surrogate parent has the same rights as a parent for all purposes under Part C of IDEA.
- 2. The DHSS EI/ILP requires that the surrogate parent may represent a child in all matters related to:
  - a. Evaluations and assessments of the child;
  - b. Development and implementation of the child's Individual Family Service Plan, including annual evaluations and periodic reviews of IFSP;
  - c. The ongoing provisions of early intervention services to the child; and
  - d. Any other rights established under the Part C.

**G. Lead Agency Responsibility** (34 CFR §[303.422](#)(g)) DHSS EI/ILP must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

## **XVII. Dispute Resolution**

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### **A. State Dispute Resolution Options**

1. *General.* (34 CFR §[303.430](#)(a)) DHSS EI/ILP ensures implementation of the procedures in this section for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in (2) through (5) below.
2. *Mediation.* (34 CFR §[303.430](#)(b)) DHSS EI/ILP makes available to parties to disputes involving any matter under Part C the opportunity for mediation that meets the requirements in 34 CFR §303.431.
3. *State Complaint Procedures.* (34 CFR §[303.430](#)(c)) DHSS EI/ILP has adopted written State complaint procedures to resolve any State complaints filed by any party regarding any violation of Part C of IDEA that meet the requirements in 34 CFR §§303.432 through 303.434.
4. *Due process hearing procedures.* (34 CFR §[303.430](#)(d)) DHSS EI/ILP has adopted written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in 34 CFR §[303.421](#)(a) by adopting the Part C due process hearing procedures under section 639 of IDEA that:
  - a. Meet the requirements in 34 CFR §§[303.435](#) through [303.438](#); and
  - b. Provide a means of filing a due process complaint regarding any matter listed in 34 CFR §[303.421](#)(a).
5. *Status of a child during pendency of a due process complaint.* (34 CFR §[303.430](#)(e))
  - a. During the pendency of any proceeding involving a due process complaint under (4) above, unless DHSS EI/ILP and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents.
  - b. If the due process complaint under (4) above involves an application for initial services under Part C of IDEA, the child must receive those services that are not in dispute.

### **B. Mediation**

1. *General.* (34 CFR §[303.431](#)(a)) DHSS EI/ILP has procedures established and implemented to allow parties to disputes involving any matter under Part C of IDEA, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.
2. *Requirements.* (34 CFR §[303.431](#)(b))
  - a. The procedures ensure that the mediation process:

- i. Is voluntary on the part of the parties;
    - ii. Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of IDEA; and
    - iii. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
  - b. The DHSS EI/ILP:
    - i. Maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services; and
    - ii. Selects mediators on a random, rotational, or other impartial basis.
  - c. The DHSS EI/ILP bears the cost of the mediation process, including the costs of meetings described (4) below.
  - d. Each session in the mediation process is scheduled in a timely manner and held in a location that is convenient to the parties to the dispute.
  - e. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:
    - i. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
    - ii. Is signed by both the parent and a representative of DHSS EI/ILP who has the authority to bind DHSS EI/ILP.
  - f. A written, signed mediation agreement under this section is enforceable in any Alaska court of competent jurisdiction or in a district court of the United States.
  - g. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or Alaska court.
3. *Impartiality of mediator.* (34 CFR §[303.431](#)(c))
- a. An individual who serves as a mediator under Part C of IDEA:
    - i. May not be an employee of DHSS EI/ILP or an EIS provider that is involved in the provision of early intervention services or other services to the child; and
    - ii. Must not have a personal or professional interest that conflicts with the person's objectivity.

- b. A person who otherwise qualifies as a mediator is not an employee of DHSS EI/ILP or an early intervention service provider solely because he or she is paid by DHSS EI/ILP, an EIS provider to serve as a mediator.
- 4. *Meeting to encourage mediation.* (34 CFR §[303.431](#)(d))
  - a. The DHSS EI/ILP has established procedures to offer to parents and EIS Programs that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:
    - i. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in Alaska established under section 671 or 672 of IDEA; and
    - ii. Who explains the benefits of, and encourage the use of, the mediation process to the parents.

### C. **State Complaint Procedures**

- 5. *General.* (34 CFR §[303.432](#)(a)) The DHSS EI/ILP has adopted written procedures for:
  - a. Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in §303.434 by providing for the filing of a complaint with DHSS EI/ILP; and
  - b. Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A) agencies, and other appropriate entities, the Alaska procedures under 34 CFR §§[303.432](#) through [303.434](#).
- 6. *Remedies for denial of appropriate services.* (34 CFR §[303.432](#)(b))
  - a. In resolving a complaint in which DHSS EI/ILP has found a failure to provide appropriate services, DHSS EI/ILP, pursuant to its general supervisory authority under Part C of IDEA, addresses:
    - i. The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family, such as compensatory services or monetary reimbursement; and
    - ii. Appropriate future provision of services for all infants and toddlers with disabilities and their families.
- 7. *Minimum State Complaint Procedures.*
  - a. **Time limit.** (34 CFR §[303.433](#)(a)) DHSS EI/ILP includes in its complaint procedures a time limit of 60 days after a complaint is filed under 34 CFR §[303.434](#) to:

- i. Carry out an independent on-site investigation, if DHSS EI/ILP determines that an investigation is necessary;
  - ii. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
  - iii. Provide DHSS EI/ILP, the public agency, or EIS Program with an opportunity to respond to the complaint, including, at a minimum:
    - (1) At the discretion of DHSS EI/ILP, a proposal to resolve the complaint; and
    - (2) An opportunity for a parent who has filed a complaint and DHSS EI/ILP, the public agency, or EIS Program to voluntarily engage in mediation, consistent with 34 CFR §§[303.430](#)(b) and [303.431](#);
  - iv. Review all relevant information and make an independent determination as to whether DHSS EI/ILP, the public agency, or EIS Program is violating a requirement of Part C of IDEA or of the regulations implementing Part C; and
  - v. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
    - (1) Findings of fact and conclusions; and
    - (2) The reasons for DHSS EI/ILP's final decision.
- b. **Time extension; final decision; implementation.** (34 CFR §[303.433](#)(b)) DHSS EI/ILP's procedures described in (a) above:
  - i. Permit an extension of the time limit under (a) above only if:
    - (1) Exceptional circumstances exist with respect to a particular complaint; or
    - (2) The parent, or individual or organization, and DHSS EI/ILP, the public agency or EIS Program involved agree to extend the time to engage in mediation; and
  - ii. Include procedures for effective implementation of DHSS EI/ILP's final decision, if needed, including:
    - (1) Technical assistance activities;
    - (2) Negotiations; and
    - (3) Corrective actions to achieve compliance.
- c. **Complaints filed under this section and due process hearings under 34 CFR §[303.430](#)(d).** (34 CFR §[303.433](#)(c))
  - i. If a written complaint is received that is also the subject of a due process hearing under 34 CFR §[303.430](#)(d), or contains multiple issues of which



one or more are part of that hearing, DHSS EI/ILP sets aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing is resolved using the time limit and procedures described in this section.

- ii. If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties:
  - (1) The due process hearing decision is binding on that issue; and
  - (2) DHSS EI/ILP informs the complainant to that effect.
- iii. A complaint alleging DHSS EI/ILP, the public agency, or EIS Program's failure to implement a due process hearing decision must be resolved by DHSS EI/ILP.

8. *Filing a complaint.* (34 CFR §[303.434](#))

- a. An organization or individual may file a signed written complaint under the procedures described in 34 CFR §§[303.432](#) and [303.433](#).
- b. The complaint must include:
  - i. A statement that DHSS EI/ILP, the public agency, or EIS provider has violated a requirement of Part C of IDEA;
  - ii. The facts on which the statement is based;
  - iii. The signature and contact information for the complainant; and
  - iv. If alleging violations with respect to a specific child:
    - (1) The name and address of the residence of the child;
    - (2) The name of the EIS Program and service provider(s) serving the child;
    - (3) A description of the nature of the problem of the child, including facts relating to the problem; and
    - (4) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
- c. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with 34 CFR [§303.432](#).
- d. The party filing the complaint must forward a copy of the complaint to the public agency or EIS Program serving the child at the same time the party files the complaint with DHSS EI/ILP.

#### **D. Due Process Hearings**

9. *Qualifications and duties.* (34 CFR §[303.435](#)(a)) Whenever a due process complaint is received under §[303.430](#)(d), a due process hearing officer must be appointed to implement the complaint resolution process in this section. The person must:
  - a. Have knowledge about the provisions of Part C of IDEA and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and
  - b. Perform the following duties:
    - c. Establish a hearing date and notify parents and any other interested parties of the date, time, and location of the hearing. The time and site of the hearing must be reasonable and convenient for parents.
    - d. Listen to the presentation of relevant viewpoints about the due process complaint.
    - e. Examine all information relevant to the issues.
    - f. Seek to reach a timely resolution of the due process complaint.
    - g. Provide a record of the proceedings, including a written decision to each party not later than 30 days after the receipt of the complaint.
10. *Definition of impartial.* (34 CFR §[303.435](#)(b))
  - a. Impartial means that the due process hearing officer appointed to implement the due process hearing under Part C of IDEA:
    - i. Is not an employee of DHSS EI/ILP or an EIS Program involved in the provision of early intervention services or care of the child; and
    - ii. Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.
  - b. A person who otherwise qualifies under (2)(a) above is not an employee of DHSS EI/ILP solely because the person is paid by DHSS EI/ILP to implement the due process hearing procedures or mediation procedures under Part C of IDEA.
11. *Parental rights in due process hearing proceedings.* (34 CFR §[303.436](#))
  - a. DHSS EI/ILP ensures that the parents of a child referred to Part C are afforded the rights in the due process hearing carried out under 34 CFR §[303.430](#)(d). Any parent involved in a due process hearing has the right to:
    - i. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;
    - ii. Present evidence and confront, cross-examine, and compel the attendance of witnesses;

- iii. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
- iv. Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
- v. Receive a written copy of the findings of fact and decisions at no cost to the parent.

12. *Convenience of hearings and timelines.* (34 CFR §[303.437](#))

- a. Any due process hearing conducted under this section must be carried out at a time and place that is reasonably convenient to the parents.
- b. DHSS EI/ILP ensures that, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing 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) above at the request of either party.
- d. Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in Alaska or Federal court under section 639(a)(1) of IDEA.

## **XVIII. System of Payments (34 CFR §303.500)**

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### **A. Use of Funds, Payor of Last Resort, and System of Payments**

1. The Alaska DHSS EI/ILP ensures written policies and procedures meet the requirements of the:
  - a. Use of funds provisions in 34 CFR §[303.501](#); and
  - b. Payor of last resort provisions in 34 CFR §§[303.510](#) through [303.521](#), regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of IDEA within Alaska.
2. Alaska has established, consistent with 34 CFR §§[303.13](#)(a) (3) and [303.203](#)(b), a System of Payments for early intervention services under Part C of IDEA, including a schedule of sliding fees required to be paid for services in which the infant or toddler with a disability or the child's family is enrolled, that meets the requirements of 34 CFR §§[303.520](#) and [303.521](#).

### **B. Definitions**

1. *Annual Participation Fee* is a supplemental funding system that is based on family size and total household income. This determines a fair payment amount for families without insurance or who prefer not to bill their insurance for services. The annual participation fee will not exceed the cost of services. For families who have been determined as having an inability to pay, services are provided at no cost.
2. *Co-payment* is the portion of the charge that a family is responsible for when private insurance is used to pay for services covered by the insurance plan. Insurance plans typically require a co-payment to be a percent of the charge for the service. It may vary based on the type of service, when the service was received (for example, within a certain number of days of an emergency) or where the service was received (outpatient versus in-patient). When there is a co-payment in managed care plans, it is usually a fixed amount regardless of the cost of the service.
3. *Deductible* is the amount that must be paid out-of-pocket for covered medical care before the benefits of the coverage began. The family should check with their insurance carrier to ascertain their deductible amount. There may also be a total family limit. Deductible amounts vary a great deal from policy to policy. Deductibles are usually set as an annual amount.
4. *Premium* is the charge that is paid to the insurer for the health coverage. This may be paid weekly, quarterly, monthly or annually.

5. *Public Benefits or Insurance* means publically funded services and public insurance including Tricare, Medicaid and Denali KidCare.

**C. Permissive Use of Funds by the Lead Agency** (34 CFR §[303.501](#))

1. Consistent with 34 CFR §§[303.120](#) through [303.122](#) and 34 CFR §§[303.220](#) through [303.226](#), DHSS EI/ILP may use funds under this part for activities or expenses that are reasonable and necessary for implementing the Alaska Early Intervention/Infant Learning Program for infants and toddlers with disabilities, including funds:
  - a. For direct early intervention services for infants and toddlers with disabilities and their families under this part that are not otherwise funded through other public or private sources (subject to 34 CFR §§[303.510](#) through [303.521](#)); and
  - b. To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available.
2. Although Alaska does not provide Part C services under 34 CFR §[303.204](#) for at risk infants and toddlers, as defined in 34 CFR §[303.5](#), the Alaska EI/ILP uses Part C funds to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purposes of:
  - a. Identifying and evaluating at-risk infants and toddlers;
  - b. Making referrals for the infants and toddlers identified and evaluated; and
  - c. Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler has changed with respect to the eligibility of the infant or toddler for services under this part.

**D. Payor of Last Resort—General Provisions**

1. *Identification and Coordination of Resources* (34 CFR §[303.203](#)(b)(1))
  - a. The DHSS EI/ILP is responsible for the identification and coordination of all available resources for providing early intervention services to eligible children and their families within Alaska, including those from Federal, State, local and private resources. Local EIS Programs must establish Letters of Understanding or Memorandums of Agreement between all agencies providing early intervention services.
  - b. The DHSS updates the information on funding resources available for early intervention services as a result of legislative or policy changes.
2. *Non-Substitution of Funds* (34 CFR §[303.510](#)(a)) Except as provided in 34 CFR §[303.510](#)(b), Part C funds may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private

source, including any medical program administered by the Department of Defense, but for the enactment of Part C. Therefore Part C funds 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 34 CFR §§[303.520](#) and [303.521](#)).

3. *Interim Payments-Reimbursement* (34 CFR §[303.510](#)(b))
  - a. If necessary to prevent a delay in the timely provision of appropriate early intervention services to an infant or toddler or the infant or toddler's family, the DHSS EI/ILP uses Part C funds to pay the provider of services for services and functions authorized under Part C, pending reimbursement from the agency or entity that has ultimate responsibility for the payment including health services, as defined in 34 CFR §[303.16](#) [but not medical services], functions of the Child Find system described in 34 CFR §§[303.115](#) through [303.117](#) and 34 CFR §§[303.301](#) through [303.320](#), and evaluations and assessments in 34 CFR §[303.321](#)).
  - b. The DHSS EI/ILP has established and implemented the following procedures for the timely reimbursement of funds to prevent delay in providing services to an eligible child and child's family.
    - i. A portion of Part C funds will be set aside for the purpose of funding services during a dispute concerning services or evaluation assessment results.
    - ii. Payment may be made for:
      - (1) Early intervention services under Part C;
      - (2) Eligible health services, as defined in 34 CFR §[303.16](#);
      - (3) Other functions and services authorized under Part C including Child Find (34 CFR §§[303.115](#) through [303.117](#) and 34 CFR §§[303.301](#) through [303.320](#)), evaluations and assessments (34 CFR §[303.321](#)).
    - iii. Payments do not apply to other medical-health services or well-baby care as defined in Part C.
4. *Non-reduction of benefits* (34 CFR §[303.501](#)(c)) The DHSS ensures there will be no reduction of medical or other assistance available in the State or alterations of the 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 eligible for Part C when those services are included in the Individualized Family Service Plan adopted in accordance with Part C.

**E. Methods to Ensure the Provision of, and Financial Responsibility for, Part C Services**  
(34 CFR §[303.511](#))

1. *Methods* (34 CFR §[303.511](#)(a) and (b))

- a. The Alaska DHSS ensures that it has in place methods for State interagency coordination that include interagency agreements or contracts. Under these methods, the Governor or Governor's designee ensures that the interagency agreements or contracts are in effect between each State public agency and the Lead Agency in order to ensure:
  - i. The provision of, and establishing financial responsibility for, early intervention services provided under this part; and
  - ii. Such services are consistent with the requirement in section 635 of the Act and Alaska's application under section 637 of the Act, including the provision of such services during the pendency of any dispute between State agencies.
- b. The methods listed above meet all requirements in this section and are set forth in one of the following:
  - i. State law or regulation;
  - ii. Signed interagency agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency;
  - iii. Signed contracts between Alaska DHSS and EIS Programs; or
  - iv. Other appropriate written methods determined by the Governor or the Governor's designee, and approved by the Secretary through the review and approval of Alaska's application.

2. *Procedures for Resolving Disputes* (34 CFR §[303.511](#)(c))

- a. Each interagency agreement or contract includes procedures for achieving a timely resolution of disputes about payments for a service or disputes about other matters related to Alaska's early intervention program. Those procedures include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee or the Alaska DHSS to make a final determination for interagency and intra-agency disputes which determination is binding upon the agencies involved. Specifically, the interagency agreement or contract includes:
  - i. That the agency or agencies are permitted to resolve their own internal disputes (based on the procedures that are included in the agreements), so long as the agency or agencies act in a timely manner; and

- ii. A process that the DHSS will follow in achieving resolution of interagency or intra-agency disputes, if a given agency or agencies are unable to resolve its own internal disputes in a timely manner
  - b. If, during the Alaska DHSS' resolution of the dispute, the Governor, Governor's designee, or the DHSS determines that the assignment of financial responsibility under this section was inappropriately made:
    - i. The Governor, Governor's designee, or DHSS, depending on the method utilized, reassigns the financial responsibility to the appropriate agency; and
    - ii. The Alaska DHSS makes arrangements for reimbursement of any expenditure incurred by the agency originally assigned financial responsibility.
3. *Delivery of services in a timely manner* (34 CFR §[303.511](#)(d))
- a. The methods used by the Alaska DHSS EI/ILP include a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities. Also, the methods are consistent with the written funding policies related to use of public benefits or insurance or private insurance as outlined in Section F: System of Payment and Fees. (34 CFR §[303.511](#)(e))
  - b. Each method includes any additional components necessary to ensure effective cooperation and coordination among, and DHSS general supervision (including monitoring) of, early intervention service providers (including all public agencies) involved in providing Part C early intervention services.

**F. System of Payments and Fees** (34 CFR §[303.521](#))

1. *Functions Not Subject to Fees* (34 CFR §[303.521](#)(b))
- a. The DHSS EI/ILP ensures that the following Part C early intervention services are available at no cost to families:
    - i. Implementing Child Find activities in 34 CFR §§[303.301](#) through 303.303;
    - ii. Evaluation and assessment as defined in 34 CFR §[303.320](#), and the functions related to evaluation and assessment in 34 CFR §[303.13](#)(b);
    - iii. Service coordination services as defined in 34 CFR §§[303.13](#)(b)(11) and [303.33](#);
    - iv. Administrative and coordinative activities related to the development, review and evaluation of IFSPs and interim IFSPs in accordance with 34 CFR §§[303.342](#) through [303.345](#); and
    - v. Implementation of procedural safeguards and the other components of the statewide system of early intervention.



2. *Functions and Services Subject to Family Cost Participation* (34 CFR §[303.521](#)(a))
  - a. The following functions and services are subject to a System of Payments for which co-payments, deductibles, or fees may be charged to families:
    - i. Assistive Technology Service and Device;
    - ii. Audiology Services;
    - iii. Family education, counseling, and home visits;
    - iv. Health Services;
    - v. Medical Services;
    - vi. Nursing Services;
    - vii. Nutrition Services;
    - viii. Occupational Therapy;
    - ix. Physical Therapy;
    - x. Psychological Services;
    - xi. Sign Language and Cued Language Services
    - xii. Social Work Services;
    - xiii. Special Instruction;
    - xiv. Speech and Language Therapy;
    - xv. Transportation and related cost of travel;
    - xvi. Vision services; and
    - xvii. Other services as appropriate.
3. *Funding Sources Accessed*
  - a. The following fund sources are accessed as part of the Alaska System of Payments and Fees policy:
    - i. Public Benefits or Insurance
    - ii. Private Insurance
    - iii. Family Fees
4. *Family Income and Expense Information*
  - a. The Alaska DHSS EI/ILP gathers family income, family size and extraordinary expense information at intake and annually. This information is used to determine potential family resources, including private insurance, public insurance or benefits that are available to pay for early intervention services and to document family income and family size for determining the family's ability to pay. Family income is determined by counting all family income

before deductions for the calendar year including the date of services, whether earned or unearned from any source, but excluding the Alaska Permanent Fund Dividend or non-taxable payments made under the Alaska Native Claims Settlement Act.

- b. A family who declines to provide the requisite income information results in the family being charged the maximum annual participation fee based on the Alaska DHSS Sliding Fee Scale. (34 CFR §[303.521](#)(a)(5))

5. *Use of Public Benefits or Insurance* (34 CFR §[303.520](#)(a))

- a. The DHSS EI/ILP ensures that families are not required to sign up for or enroll in public benefits or insurance as a condition of receiving Part C early intervention services and that parent consent must be obtained prior to use of public benefits or insurance if that child or parent is not already enrolled.
- b. The Alaska EI/ILP or its EIS Program obtains parental consent, consistent with 34 CFR §§[303.7](#) and [303.420](#)(a)(4), at the time of intake using the Part C Early Intervention Consent to Bill Insurance form included in the Family Consent and Family Fee Packet prior to using a child's or parent's public benefits or insurance to pay for Part C services if that use would:
  - i. Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;
  - ii. Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
  - iii. Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or
  - iv. Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.
- c. If the parent does not provide consent for using public benefits or insurance, the Alaska EI/ILP still makes available those Part C services to which the parent has agreed to receive as identified on the IFSP.
- d. At intake, when consent is obtained for using public benefits or insurance, the Alaska Early Intervention/Infant Learning Program provides written notification to the child's parents. The notification includes:
  - i. A statement that parental consent is obtained under 34 CFR §[303.414](#) before the DHSS EI/ILP or the EIS Program discloses, for billing purposes, a child's personally identifiable information to the Division of Health Care Services in the DHSS Services, which is responsible for the administration of the Alaska public benefits or insurance program;
  - ii. A statement of the no-cost protection provisions in 34 CFR §[303.520](#)(a)(2) and that if the parent does not provide the consent

under 34 CFR §[303.520](#)(a)(2), the Early Intervention/Infant Learning Program still makes 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 34 CFR §[303.414](#), to withdraw their consent to disclosure of personally identifiable information to the Division of Health Care Services in the DHSS, which is responsible for the administration of the Alaska public insurance programs at any time;
- iv. A statement that families may incur a cost as a result of Part C using public benefits or insurance [303.520a4](#). Families are responsible for paying their insurance premiums, if any; and
- v. A statement that private insurance, with parental consent, is used as the primary insurance when children are dually enrolled in public benefits or insurance and private insurance.

6. *Use of private insurance to pay for Part C services (34 CFR §[303.520](#)(b))*

- a. The DHSS EI/ILP and EIS Programs obtains parental consent, consistent with 34 CFR §§[303.7](#) and [303.420](#)(a)(4), prior to using private insurance to pay for the initial provision of Part C services in the Individualized Family Service Plan. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent is also obtained each time consent for services is required under 34 CFR §[303.420](#)(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's Individualized Family Service Plan.
- b. In accordance with 34 CFR §[303.520](#)(b)(1)(ii), the EIS Program provides a copy of Alaska's billing policies to families whenever parental consent is obtained in 6(a) above.
  - i. There are potential costs that the parent may incur when using their private insurance including premiums, or other long-term costs such as the loss of benefits because of annual or lifetime caps under the insurance policy.
  - ii. There is a potential that the use of the family's private health care coverage/insurance may negatively affect the availability of health insurance to the child with a disability, the parent, or the child's family members covered under the policy and health care coverage/insurance may be discontinued due to the use of the insurance policy to pay for Part C early intervention services; or
  - iii. The potential that health care coverage/insurance premiums may be affected by the use of private insurance to pay for early intervention services.

- c. Alaska has not enacted a statute regarding private health insurance coverage for early intervention services under Part C and, therefore, does not have all necessary protections in place that would eliminate the need for obtaining parental consent when using private insurance.
- d. Families are responsible for paying their insurance premiums. When access to insurance is provided, co-pays and deductibles will be waived.
- e. For parents who have been determined unable to pay and who do not provide consent to use private insurance, the lack of consent cannot be used to delay or deny any Part C services. (34 CFR §[303.520\(c\)](#))

7. *Family Fees*

- a. An annual participation fee is charged to families as determined by their ability to pay.
- b. Families who provide consent for the use of private insurance will receive a reduction of 50% of their annual participation fee based on family size. For families who have been determined as having an inability to pay, services are provided at no cost.
- c. Families who refuse to enroll in public benefits or insurance are charged the annual participation fee based on family size. For families who have been determined as having an inability to pay, services are provided at no cost.
- d. A family participation fee is not charged for children who are enrolled in public insurance such as Medicaid or Denali Kid Care, a ward of the State, or in foster care.

8. *Ability to Pay and Inability to Pay* (34 CFR §[303.521\(a\)\(3\)](#))

- a. Ability to pay is defined as the amount the family is able to contribute toward the maximum annual fee established by the Annual Participation Fee Agreement as determined by family size, family income, and extraordinary expenses.
- b. Inability to pay is defined as the family's inability to contribute any payment for services as determined by family size, family income, and extraordinary expenses as indicated by a fee of zero dollars (\$0) on the Sliding Fee Scale.
- c. The DHSS EI/ILP determines ability to pay and inability to pay at intake and when there are changes in family income, size and or extraordinary expenses by gathering income and expense information in the Family Consent and Billing Packet.

9. *Sliding Fee Scale* (34 CFR §[303.521\(a\)\(1\)](#) and (2))

- a. The Annual Participation Fee Agreement, included in the Family Consent and Billing Packet determines the annual participation fee that each family is responsible for paying.

- b. The schedule of sliding fees has been established based on the annual income of families in Alaska, incorporating family size and income.

10. *Extraordinary Expenses*

Families may request an adjustment to their annual participation fee due to extraordinary expenses by completing the Family Fee Reduction Calculation Worksheet. Extraordinary expenses may include expenses related to the child's disability, family medical/health care expense, or a catastrophic life event, such as a natural disaster or other event resulting in drastic reduction of the family financial resources.

11. *Assurances*(34 CFR §[303.521](#)(a)(4))

The DHSS EI/ILP assures that:

- a. Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (see 1 above).
- b. The inability of the parents to pay for services will not result in a delay or denial of services under Part C of IDEA to the child or the child's family such that, if the parent or family meets the definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost.
- c. Families will not be charged any more than the actual cost of the Part C service, factoring in any amount received from other sources for payment for that service.
- d. 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.
- e. Part C funds may be used to pay co-payments, deductibles, and premiums in accordance with the payor of last resort provision in 34 CFR §[303.510](#).

12. *Procedural Safeguards* (34 CFR §[303.521](#)(e))

- a. Parents who wish to contest the imposition of a fee, or Alaska's determination of the parent's ability to pay, may do one of the following:
  - i. Participate in mediation in accordance with 34 CFR §[303.431](#);
  - ii. Request a due process hearing under 34 CFR §[303.436](#);
  - iii. File a State complaint under 34 CFR §[303.434](#).
- b. The EIS Program informs parents of these procedural safeguard options by including this information with the procedural safeguard notice to parents under 34 CFR §[303.421](#).

**G. Proceeds or Funds** (34 CFR §[303.520](#))

1. *Proceeds or funds from public insurance or benefits or from private insurance* (34 CFR §[303.520](#)(d))
  - a. Alaska DHSS EI/ILP does not treat proceeds or funds from public insurance or benefits or from private insurance as program income for the purposes of 34 CFR §80.25.
  - b. When DHSS EI/ILP receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for Part C services, those funds are considered neither State nor local funds under 34 CFR §[303.225](#)(b).
  - c. When DHSS EI/ILP spends funds from private insurance for Part C services, those funds are considered neither State nor local funds under 34 CFR §[303.225](#).
2. *Funds received from a parent or family member under the State's System of Payments* (34 CFR §[303.520](#)(e))
  - a. Funds received by DHSS EI/ILP from a parent or family member under the System of Payments are considered program income under 34 CFR §80.25. These funds:
    - i. Are not deducted from the total allowable costs charged under Part C as set forth in 34 CFR §80.25(g)(1);
    - ii. Must be used for the State's Part C early intervention services program, consistent with 34 CFR §80.25(g)(2); and
    - iii. Are considered neither State nor local funds under 34 CFR §[303.225](#)(b).

## **XIX. State Interagency Coordinating Council**

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### **A. Definition**

*Council* means the State Interagency Coordinating Council that meets the requirements of these policies and procedures. (34 CFR §[303.8](#))

### **B. Establishment of Council** (34 CFR §[303.600](#))

1. Alaska has established a State Interagency Coordinating Council (Council) as defined in 34 CFR §[303.8](#).
2. The Council is appointed by the Governor. The Governor ensures that the membership of the Council reasonably represents the population of Alaska.
3. The Governor requires the Council to designate a member of the Council to serve as the chair. Any member of the Council who is a representative of DHSS EI/ILP may not serve as the chairperson of the Council.

### **C. Composition** (34 CFR §[303.601](#))

1. The Council is composed as follows:
  - a. At least 20 percent of the members are parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.
  - b. At least one parent member is a parent of an infant or toddler with a disability or a child with a disability aged six years or younger.
  - c. At least 20 percent of the members are public or private providers of early intervention services.
  - d. At least one member is from the Alaska legislature.
  - e. At least one member is involved in personnel preparation.
  - f. At least one member:
    - i. Is from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and
    - ii. Has sufficient authority to engage in policy planning and implementation on behalf of these agencies.
  - g. At least one member:
    - i. Is from the SEA responsible for preschool services to children with disabilities; and

- ii. Has sufficient authority to engage in policy planning and implementation on behalf of the SEA.
  - h. At least one member is from the agency responsible for the State Medicaid and CHIP program.
  - i. At least one member is from a Head Start or Early Head Start agency or program in the State.
  - j. At least one member is from a State agency responsible for child care.
  - k. At least one member is from the agency responsible for the State regulation of private health insurance.
  - l. At least one member is a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.
  - m. At least one member is a representative from the State child welfare agency responsible for foster care.
  - n. At least one member is from the State agency responsible for children's mental health.
2. The Governor may appoint one member to represent more than one program or agency listed in (1)(h) through (1)(n) above.
  3. The Council may include other members selected by the Governor, including a representative from the Indian Health Service or the tribe or tribal council.
  4. No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

**D. Meetings** (34 CFR §[303.602](#))

1. The Council must meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.
2. The meetings must:
  - a. Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;
  - b. To the extent appropriate, be open and accessible to the general public; and
  - c. As needed, provide for interpreters for persons who are deaf and other necessary services for Council members and participants. The Council may use funds under Part C of IDEA to pay for those services.

**E. Use of funds by the Council** (34 CFR §[303.603](#))

1. Subject to the approval by the Governor, the Council may use funds under Part C of IDEA to:



- a. Conduct hearings and forums;
  - b. Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties, including child care for parent representatives;
  - c. Pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;
  - d. Hire staff; and
  - e. Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of IDEA.
2. Except as provided in this section, Council members must serve without compensation from funds available under Part C of IDEA.

#### **F. Functions of the Council - Required Duties**

1. *Advising and assisting the lead agency.* (34 CFR §[303.604](#)(a)) The Council must advise and assist DHSS EI/ILP in the performance of its responsibilities in section 635(a)(10) of IDEA, including
  - a. Identification of sources of fiscal and other support for services for early intervention service programs under Part C of IDEA;
  - b. Assignment of financial responsibility to the appropriate agency;
  - c. Promotion of methods, including use of intra-agency and interagency agreements, for intra-agency and interagency collaboration regarding Child Find under 34 CFR §§[303.115](#) and [303.302](#), monitoring under 34 CFR §§[303.120](#) and [303.700](#) through [303.708](#), financial responsibility and provision of early intervention services under §§[303.202](#) and [303.511](#), and transition under §[303.209](#); and
  - d. Preparation of applications under Part C of IDEA and amendments to those applications.
2. *Advising and assisting on transition.* (34 CFR §[303.604](#)(b)) The Council must advise and assist EED and DHSS EI/ILP regarding the transition of toddlers with disabilities to preschool and other appropriate services.
3. *Annual report to the Governor and to the Secretary.* (34 CFR §[303.604](#)(c)) The Council must:
  - a. Prepare and submit an annual report to the Governor and to the Secretary on the status of EIS Programs for infants and toddlers with disabilities and their families under Part C of IDEA operated within the State; and
  - b. Submit the report to the Secretary by a date that the Secretary establishes.

- c. Each annual report must contain the information required by the Secretary for the year for which the report is made.

**G. Authorized Activities by the Council** (34 CFR §[303.605](#))

- 1. The Council may carry out the following activities:
  - a. Advise and assist DHSS EI/ILP and EED regarding the provision of appropriate services for children with disabilities from birth through age five.
  - b. Advise appropriate agencies in Alaska with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in Alaska.
  - c. Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, as described in section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other State interagency early learning initiatives, as appropriate.

## XX. Federal and State Monitoring and Enforcement

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### A. State Monitoring and Enforcement (34 CFR §[303.700](#))

1. The DHSS EI/ILP:
  - a. Monitors the implementation of Part C of IDEA;
  - b. Makes determinations annually about the performance of each EIS Program using the categories identified in 34 CFR §[303.703](#)(b);
  - c. Enforces Part C of IDEA consistent with 34 CFR §[303.704](#), using appropriate enforcement mechanisms, which includes, if applicable, the enforcement mechanisms identified in 34 CFR §[303.704](#)(a)(1) (technical assistance) and 34 CFR §[303.704](#)(a)(2) (imposing conditions on DHSS EI/ILP's funding of an EIS Program or, if the DHSS EI/ILP does not provide Part C funds to the EIS Program, a service provider), 34 CFR §[303.704](#)(b)(2)(i) (corrective action or improvement plan) and 34 CFR §[303.704](#)(b)(2)(iv) (withholding of funds, in whole or in part by the lead agency), and 34 CFR §[303.704](#)(c)(2) (withholding of funds, in whole or in part by the lead agency); and
  - d. Reports annually on the performance of Alaska and of each EIS Program under Part C of IDEA as provided in 34 CFR §[303.702](#).
2. The primary focus of Alaska monitoring activities is on:
  - a. Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and
  - b. Ensuring that EIS Programs meet the program requirements under Part C of IDEA, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.
3. As a part of its responsibilities under (1) above, Alaska uses quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in (4) below, and the indicators established by the Secretary for the State performance plans.
4. DHSS EI/ILP monitors each EIS Program located in Alaska, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:
  - a. Early intervention services in natural environments.
  - b. State exercise of general supervision, including Child Find, effective monitoring, mediation, and a system of transition services as defined in section 637(a)(9) of IDEA.

5. In exercising its monitoring responsibilities under (4) above, Alaska ensures that when it identifies noncompliance with the requirements of Part C of IDEA by EIS Programs and service providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance.
6. *Procedures for identifying issues of performance and compliance in EIS Programs.*
  - a. Each EIS Program:
    - i. Submits timely reports on all required information by Federal and State laws and policies such as: required compliance reports; self assessments; local policies and procedures; etc.;
  - b. The Alaska DHSS EI/ILP:
    - i. Uses web-database data to monitor EIS Programs for compliance with IDEA and DHSS EI/ILP requirements;
    - ii. Conducts regular EIS program self assessments;
    - iii. Conducts periodic on-site data verification visits to each EIS Program;
    - iv. Interviews parents and other service providers during on-site monitoring visits for input on procedural safeguards, child and family outcomes and service delivery;
    - v. Completes annual report cards summarizing the evaluation of each EIS program; and
    - vi. Conducts on-site monitoring visits for EIS Programs that have the greatest compliance needs.
7. *Procedures for identifying and addressing fiscal issues through fiscal monitoring:*
  - a. Each EIS Program submits a quarterly and annual financial report to the Alaska DHSS, EI/ILP Coordinator's office that must include:
    - i. Information related to the EIS Program's State-approved budget;
    - ii. Current quarter and cumulative expenditures;
    - iii. Receipts to date;
    - iv. Information by budget category (i.e., personnel, travel, facility); and
    - v. Separate reporting of the expenditure of Part C funds and other funds.
  - b. Procedures for EIS Programs to follow when requesting a budget revision are outlined in Alaska Statute Regulations.
  - c. If EIS Programs fail to complete required reports, the Alaska DHSS EI/ILP may delay or withhold a percentage of an EIS Program's funds until all expenditure reports have been submitted and approved.

- d. EIS Programs receiving funds are required to conduct an audit based on DHSS State regulation.
  - e. The authority for the enforcement (i.e., use of sanctions, withholding of funds, injunctions, repayment of funds, etc.) of required services imposed on EIS Programs providing EIS under Part C of IDEA is as follows:
    - i. State and Federal law;
    - ii. DHSS EI/ILP policies and procedures that are included in grant and audit regulations; and
    - iii. Intra- and interagency agreements.
8. Technical assistance as a result of supervision and monitoring of programs from the Alaska DHSS EI/ILP is coordinated through the EI/ILP office as follows:
    - a. By on-site visit(s);
    - b. By individual phone contacts and regional teleconference calls; and
    - c. By multimedia materials (i.e., materials developed for use by rural providers, videotapes, written procedure/orientation guides).
    - d. National and local experts from disciplines related to early intervention services make presentations in Alaska at workshops/conferences.
      - i. Provisions should be made for minimum of one workshop per year.
      - ii. All aspects of providing services are addressed and education will be provided to service providers from a variety of agencies.
    - e. Service providers are requested to function as mentors for new staff, especially those from rural/remote regions who are without other resources.
  9. *Procedures* for correcting and verifying correction of noncompliance upon identification through the monitoring activities described in (6) and (7) above.
  10. DHSS EI/ILP sends a written report to the EIS Program outlining identifying the noncompliance and steps of correction (e.g., completion of corrective action plans) to be taken with deadline dates (noncompliance must be corrected as soon as possible but no later than one year of identification);
  11. EIS Programs submit data and evidence of completion of the steps of correction to DHSS EI/ILP to demonstrate correction of the noncompliance;
  12. DHSS EI/ILP reviews data and evidence submitted by EIS Programs to verify correction and informs EIS programs in writing when correction has occurred;
  13. DHSS EI/ILP imposes sanctions when agencies do not fail to correct noncompliance in a timely manner or fulfill grant obligations; and
  14. Any uncorrected noncompliance is brought to the attention of the Commissioner of the DHSS and then to Alaska's Governor.

## **B. State Performance Plans and Data Collection**

1. *General.* (34 CFR §[303.701](#)(a)) Alaska has in place a performance plan that meets the requirements described in section 616 of IDEA; is approved by the Secretary; and includes an evaluation of Alaska's efforts to implement the requirements and purposes of Part C of IDEA, a description of how Alaska will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR §[303.700](#)(d).
2. *Review of State Performance Plan.* (34 CFR §[303.701](#)(b)) Alaska reviews its State Performance Plan (SPP) at least once every six years and submits any amendments to the Secretary.
3. *Data collection.* (34 CFR §[303.701](#)(c))
  - a. Alaska collects valid and reliable information as needed to report annually to the Secretary under 34 CFR §[303.702](#)(b)(2) on the indicators established by the Secretary for the State Performance Plans.
  - b. If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and Alaska collects data for a particular indicator through State monitoring or sampling, Alaska collects and reports data on those indicators for each EIS Program at least once during the six-year period of a State performance plan.
  - c. Nothing in Part C of IDEA or these regulations may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part C of IDEA.

## **C. State Use of Targets and Reporting** (34 CFR §[303.702](#))

4. Alaska uses the targets established in the State's performance plan under 34 CFR §[303.701](#) and the priority areas described in 34 CFR §[303.700](#)(d) to analyze the performance of each EIS Program in implementing Part C of IDEA.
5. Subject to (2)(c) below, Alaska:
  - a. Reports annually to the public on the performance of each EIS Program located in the State on the targets in the Alaska Annual Performance Report as soon as practicable but no later than 120 days following the submission of the Alaska Annual Performance Report to the Secretary under (3) below; and
  - b. Makes the State's Performance Plan under 34 CFR §[303.701](#)(a), annual performance reports, and the State's annual reports on the performance of each EIS Program available through public means, including by posting on the DHSS EI/ILP Website, distribution to the media, and distribution to EIS Programs.

- c. In meeting the requirements of this section, since Alaska collects some data through State monitoring or sampling, Alaska includes in its public report on EIS Programs the most recently available performance data on each EIS Program and the date the data were collected.
- 6. Alaska reports annually to the Secretary on the performance of the State under the State's performance plan.
- 7. Alaska does 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.

**D. Alaska Review of and Annual Determinations Regarding Local Performance** (34 CFR §[303.703](#))

- 1. Based on the information provided by EIS Programs in the State database, information obtained through monitoring visits, and any other public information made available, DHSS EI/ILP annually determines, in accordance with 34 CFR §§[303.700](#) - [303.703](#), whether each EIS Program:
  - a. Meets the requirements and purposes of Part C of IDEA;
  - b. Needs assistance in implementing the requirements of Part C of IDEA;
  - c. Needs intervention in implementing the requirements of Part C of IDEA; or
  - d. Needs substantial intervention in implementing the requirements of Part C of IDEA.
- 2. For determinations made, DHSS EI/ILP provides reasonable notice and an opportunity to appeal those determinations.
- 3. The appeal described in (2) above consists of a review of a written statement of appeal and any documentation submitted with the appeal that demonstrates why DHSS EI/ILP should not make the determination described.

**E. Enforcement** (34 CFR §[303.704](#))

- 1. *Needs assistance.* (34 CFR §[303.704](#)(a)) If DHSS determines, for two consecutive years, that an EIS Program needs assistance in implementing the requirements of Part C of IDEA, DHSS EI/ILP takes one or more of the following actions:
  - a. Advises the EIS Program of available sources of technical assistance that may help the EIS Program address the areas in which the EIS Program needs assistance, which may include assistance from DHSS EI/ILP and technical assistance providers including Federally-funded nonprofit agencies, and requires the EIS Program to work with appropriate entities. This technical assistance may include:

- i. The provision of advice by experts to address the areas in which the EIS Program needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;
    - ii. Assistance in identifying and implementing professional development, early intervention service provision strategies, and methods of early intervention service provision that are based on scientifically based research;
    - iii. Designating and using administrators, service coordinators, service providers, and other personnel from the EIS Program to provide advice, technical assistance, and support; and
    - iv. Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of IDEA, and private providers of scientifically based technical assistance.
  - b. Identifies the EIS Program as a high-risk grantee and imposes special conditions on the EIS Program's grant under Part C of IDEA.
2. *Needs intervention.* (34 CFR §[303.704\(b\)](#)) If DHSS EI/ILP determines, for three or more consecutive years, that an EIS Program needs intervention in implementing the requirements of Part C of IDEA, the following apply:
- a. DHSS EI/ILP may take any of the actions described in paragraph (1) of this section.
  - b. DHSS EI/ILP takes one or more of the following actions:
    - i. Requires the EIS Program to prepare a corrective action plan or improvement plan if DHSS EI/ILP determines that the EIS Program should be able to correct the problem within one year.
    - ii. Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
    - iii. Withholds, in whole or in part, any further payments to the EIS Program under Part C of IDEA.
  - c. Refers the matter for appropriate enforcement action.
3. *Needs substantial intervention.* (34 CFR §[303.704\(c\)](#)) Notwithstanding (1) or (2) above, at any time that DHSS EI/ILP determines that an EIS Program needs substantial intervention in implementing the requirements of Part C of IDEA or that there is a substantial failure to comply with any requirement under Part C of IDEA by the EIS Program, DHSS EI/ILP takes one or more of the following actions:
- a. Recovers funds under section 452 of GEPA, 20 U.S.C. 1234a.
  - b. Withholds, in whole or in part, any further payments to the provider agency under Part C of IDEA.



- c. Refers the matter for appropriate enforcement action.
- F. **Public Attention** (34 CFR §[303.706](#)) Whenever Alaska receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to 34 CFR §[303.704](#) against Alaska, DHSS EI/ILP must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to section 616(e) of IDEA and 34 CFR §[303.704](#) of the regulations to the attention of the public within Alaska, including by posting the notice on the DHSS EI/ILP Website and distributing the notice to the media and to provider agencies.
- G. **Rule of Construction** (34 CFR §[303.707](#)) Nothing in this subpart may be construed to restrict the Secretary from utilizing any authority under GEPA, 20 U.S.C. 1221 et seq., and its regulations in 34 CFR parts 76, 77, 80, and 81, including the imposition of special conditions under 34 CFR §80.12, to monitor and enforce the requirements of IDEA.
- H. **State Enforcement** (34 CFR §[303.708](#)) Nothing in this subpart may be construed to restrict Alaska DHSS EI/ILP from utilizing any other authority available to it to monitor and enforce the requirements of IDEA.

## XXI. Data Requirements

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### A. General (34 CFR §[303.720](#))

1. DHSS EI/ILP annually reports to the Secretary and to the public on the information required by section 618 of IDEA at the times specified by the Secretary.
2. DHSS EI/ILP submits the report to the Secretary in the manner prescribed by the Secretary.
3. The lead agency in Alaska, DHSS EI/ILP, collects data directly from each EIS Program participating in Part C of IDEA. Sampling is not used in data collection. The data are collected by means of the Alaska ILP web-based data system, which is updated as needed. The web-based data system contains all data elements needed to satisfy both Part C requirements and State needs. All data required under Part C of IDEA and other information the Secretary may require are reported to the Department at the time and in the manner specified by the Secretary.
4. Procedures within DHSS EI/ILP for compiling data under section 618 of IDEA that relate to Part C:
  - a. Each EIS Program enters appropriate data into a computerized program;
  - b. Data is entered on an ongoing basis and verified for annual reporting no later than July 30th;
  - c. Child counts are submitted for December 1st and June 30th;
  - d. Appropriate reports are generated and submitted by the DHSS EI/ILP at the time and in the manner specific by the Office of Special Education Programs.

### B. Annual Report of Children Served—Report Requirement (34 CFR §[303.721](#))

1. For the purposes of the annual report required by section 618 of IDEA and 34 CFR §[303.720](#), DHSS EI/ILP counts and reports the number of infants and toddlers receiving early intervention services on December 1 of each year. The report includes:
  - a. The number and percentage of infants and toddlers with disabilities in Alaska, 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 under 34 CFR §[303.731](#)(e)(1)).
  - b. 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.

- c. The number and percentage of at-risk infants and toddlers (as defined in section 632(1) of IDEA), by race and ethnicity, who are receiving early intervention services under Part C of IDEA.
- d. The number of due process complaints filed under section 615 of IDEA, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.
- e. The number and percentage of children with disabilities who are eligible for services under 619 of the Act but whose parents choose for those children to continue to receive early intervention services.

**C. Data Reporting** (34 CFR §[303.722](#))

- 1. The data described in section 618(a) of IDEA and in 34 CFR §[303.721](#) is publicly reported by Alaska in a manner that does not result in disclosure of data identifiable to individual children.
- 2. The Secretary may permit States and outlying areas to obtain data in section 618(a) of IDEA through sampling.

**D. Annual Report of Children Served—Certification** (34 CFR §[303.723](#)) DHSS EI/ILP includes in its report a certification signed by an authorized official of DHSS EI/ILP that the information provided under 34 CFR §[303.721](#) is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.

**E. Annual Report of Children Served—Other Responsibilities of the Lead Agency** (34 CFR §[303.724](#))

- 1. In addition to meeting the requirements of 34 CFR §§[303.721](#) through [303.723](#), DHSS EI/ILP conducts its own child count or uses EIS Programs to complete its child count. DHSS EI/ILP uses EIS Programs to complete its child count and:
  - a. Establishes procedures to be used by EIS Programs in counting the number of children with disabilities receiving early intervention services;
  - b. Establishes dates by which those EIS Programs must report to the lead agency to ensure that the State complies with 34 CFR §[303.721](#)(a);
  - c. Obtains certification from each EIS Programs that an unduplicated and accurate count has been made;
  - d. Aggregates the data from the count obtained from each EIS Program and prepare the report required under 34 CFR §§[303.721](#) through [303.723](#); and
  - e. Ensures that documentation is maintained to enable DHSS EI/ILP and the Secretary to audit the accuracy of the count.