

Montana's Part C Compliance Document: Conformity with the Federal Rules and Regulations for the Early Intervention Program of Infants and Toddlers with Disabilities (Part C of IDEA)

(Revised and Reviewed by the Office of Special Education Programs, July 2013)

**Montana Department of Public Health and Human Services
Early Childhood and Family Supports Division
Early Childhood Services Bureau
Montana Milestones Part C Early Intervention**



The Early Childhood and Family Support Division (ECFSD) of the Montana Department of Public Health and Human Services, is Montana's lead agency for the Early Intervention Program for Infants and Toddlers with Disabilities, under the Individuals with Disabilities Education Improvement Act (Part C of IDEA as amended in 2004) administered by the Office of Special Education Programs (OSEP) of the U.S. Department of Education. The Individuals with Disabilities Education Improvement Act was reauthorized and amended by Congress in 2004. The new Part C Rules and Regulations reflect the changes in the Part C IDEA of 2004, approved by Congress, and promulgated on September 28, 2011. This document is Montana's compliance to the Part C Rules and Regulations and 2012 application requirements for states in order to provide Part C services. It includes Montana's assurances, policies, procedures, methods and descriptions concerning Part C services related to the Federal Rules and Regulations.

The document includes chapters for each subpart of the Part C Rules and Regulations. Each chapter is divided into sections and items. Each chapter, section and item have a State reference number and title (e.g., Subpart B 5. Minimum Components of a Statewide System) and Federal reference number (e.g., §303.110) to the specific Rule and Regulation found in Part II, Department of Education, 34 CFR 300 and 303 Early Intervention Program for Infants and Toddlers with Disabilities; Assistance to States for the Education of Children with Disabilities; Final Rule and Proposed Rule (**FEDERAL REGISTER**, Vol. 76, Wednesday, No. 188, September 28, 2011).

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This document, dated December 2020, reflects the following changes:

- Formatting to meet accessibility requirements
- Early Childhood and Family Support Division (ECFSD) replaces Developmental Disabilities Program (DDP)
- Montana Parent Training and Information Center replaces Parents Lets Unite for Kids (PLUK)
- Contracting Requirements and Procedures, page 36: addition of Montana's Procurement Act, Montana Code Annotated 2019, Title 18. Public Contracts, Chapter 4. Montana Procurement Act

Subpart A – General Definitions

A 1 303.3 Applicable regulations

- (a) The following regulations apply to this part:
- (1) The regulations in part 303.
 - (2) The Education Department General Administrative Regulations (EDGAR), including 34 CFR Parts 76 (except for §76.103), 77, 79, 80, 81, 82, 84, 85, and 86.
- (b) In applying the regulations cited in paragraph (a)(2) of this section, any reference to:
- (1) State educational agency means the lead agency under this part; and
 - (2) Education records or records mean early intervention records.
- (Authority: 20 U.S.C. 1221(b), 1221e-3, 1431-1444)

A 2 Definitions Used in This Part

Montana adopts the definitions in the Federal Part C Statutes, Rules and Regulations consistent with §303.4 through 303.307. Additions, modifications or deletions occur for definitions that do not apply to Montana's Part C system or clarifications are needed to make a definition consistent with Montana's policies and procedures or State law.

§303.4 Act.

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

(Authority: 20 U.S.C. 1400(a))

§303.5 At-risk infant or toddler

At-risk infant or toddler means an individual less than three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. This definition of at-risk infants and toddlers is not included in the State's definition of developmental delay and, therefore; are not eligible to participate in the State's Part C early intervention program.

§303.6 Child

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

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

§303.7 Consent

Consent means:

- (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in §303.25;
- (b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes the activity and lists the early intervention records (if any) to be released and to whom they will be released; and
- (c) Granting and Revoking Consent.
 - (1) The parent understands the granting of consent is voluntary on the part of the parent and may be revoked at any time.
 - (2) If a parent revokes consent, the revocation is not retroactive (i.e., it does not apply to an action occurring before consent was revoked).

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

§303.8 Council

Council means the State Interagency Coordinating Council meeting the requirements

of subpart G of this part and is referred to as the Family Support Services Advisory Council (FSSAC) in Montana.
(Authority: 20 U.S.C. 1432(2))

§303.9 Day

Day means calendar day, unless otherwise indicated.
(Authority: 20 U.S.C.1221e-3)

§303.10 Developmental delay

Developmental delay, when used with respect to a child residing in the State, has the meaning given that term by the State under Subpart B 5.2 (§303.111).
(Authority: 20 U.S.C. 1432(3))

§303.11 Early intervention service (EIS) provider

Early intervention service (EIS) provider or EIS agency or EIS contractor means an entity designated by the lead agency for reporting under Subpart H 1 through H 3 (§303.700 through §303.702). In Montana, the lead agency is the Early Childhood and Family Support Division (ECFSD), Early Childhood Services Bureau, Department of Public Health and Human Services.

(Authority: 20 U.S.C. 1416, 1431–1444)

§303.12 Early intervention service (EIS) provider

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

(b) An EIS provider is responsible for:

- (1) Participating in the multidisciplinary Individualized Family Service Plan (IFSP) team's ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP;
- (2) Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and
- (3) Consulting with and training parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

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

§303.13 Early intervention services

(a) **General.**

Early intervention services mean developmental services that—

- (1) Are provided under public supervision;
- (2) Are selected in collaboration with the parents or guardians;
- (3) Are provided at no cost, except, subject to Subpart F 5 and F 6 (§303.520 and §303.521), where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;
- (4) Are designed to meet the developmental needs of an infant or toddler with a

disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team, in any one or more of the following areas:

- Physical development;
- Cognitive development;
- Communication development;
- Social or emotional development;
- Adaptive development;

- (5) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the Act;
- (6) Include services identified under Subpart A 2. - §303.13 Early intervention services (b) of this section;
- (7) Are provided by qualified personnel (as defined in Subpart A - §303.31), including the types of personnel listed in paragraph (c) of this section;
- (8) To the maximum extent appropriate, are provided in natural environments, as defined in Subpart A -§303.26 and consistent with Subpart B 17 and Subpart D 7.13 (§303.126 and §303.344(d)); and
- (9) Are provided in conformity with an IFSP adopted in accordance with section 636 of the Act and Subpart A - §303.20.

(b) **Types of early intervention services** Subject to Subpart A 2. - §303.13 Early intervention services (d) of this section, early intervention services include the following services defined:

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

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

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

- The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and
- Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who

provide services to or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

(2) **Audiology services** include:

- Identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;
- Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
- Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;
- Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;
- Provision of services for prevention of hearing loss; and
- Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

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

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

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

(6) **Nursing services** include:

- 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;
- The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
- The administration of medications, treatments, and regimens prescribed by a licensed physician.

(7) **Nutrition services** include:

- Conducting individual assessments in:
 - ✓ Nutritional history and dietary intake;
 - ✓ Anthropometric, biochemical, and clinical variables;
 - ✓ Feeding skills and feeding problems; and
 - ✓ Food habits and food preferences.
- Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings in paragraph (b)(7)(i) of this section; and
- Making referrals to appropriate community resources to carry out nutrition goals.

(8) **Occupational therapy** includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These

services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

- Identification, assessment, and intervention;
- 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
- Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(9) **Physical therapy** includes services to address the promotion of sensor motor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:

- Screening, evaluation, and assessment of children to identify movement dysfunction;
- Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
- Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.

(10) **Psychological services** include:

- Administering psychological and developmental tests and other assessment procedures;
- Interpreting assessment results;
- Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and
- Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

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

(12) **Sign language and cued language services** include:

- Teaching sign language, cued language, and auditory/oral language;
- Providing oral transliteration services (such as amplification); and
- Providing sign and cued language interpretation.

(13) **Social work services** include:

- Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
- Preparing a social or emotional developmental assessment of the infant or toddler within the family context;
- 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;
- 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 the child that affect the child's maximum utilization of early intervention services; and
- Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

(14) **Special instruction** includes:

- The design of learning environments and activities to promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- Curriculum planning, including the planned interaction of personnel, materials, and time and space, leading to achieving the outcomes in the IFSP for the infant or toddler with a disability;
- Providing families with information, skills, and support related to enhancing the skill development of the child; and
- Working with the infant or toddler with a disability to enhance the child's development.

(15) **Speech-language pathology services** include:

- Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
- 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
- Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

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

(17) **Vision services** means:

- Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities affecting early childhood development;
- Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
- Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

(c) **Qualified personnel.**

The following are the types of qualified personnel who provide early intervention services under this part:

- (1) Audiologists.
- (2) Family therapists.
- (3) Nurses.
- (4) Occupational therapists.
- (5) Orientation and mobility specialists.

- (6) Pediatricians and other physicians for diagnostic and evaluation purposes.
- (7) Physical therapists.
- (8) Psychologists.
- (9) Registered dieticians.
- (10) Social workers.
- (11) Special educators, including teachers of children with hearing impairments (including deafness) and teachers of children with visual impairments (including blindness).
- (12) Speech and language pathologists.
- (13) Vision specialists, including ophthalmologists and optometrists.
- (14) Family Support Specialist/Service Coordinator (employed by a Montana EIS contracted provider).

(d) Other services

The services and personnel identified and defined in paragraphs (b) and (c) of this section do not comprise exhaustive lists of the types of services constituting early intervention services or the types of contracted personnel providing early intervention services. Nothing in this section prohibits the identification in the IFSP of another type of service as an early intervention service provided the service meets the criteria identified in paragraph (a) of this section or of another type of personnel providing early intervention services in accordance with this part, provided such personnel meet the requirements in Subpart A - §303.31.

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

§303.14 Elementary school

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

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

§303.15 Free appropriate public education (FAPE)

Free appropriate public education or FAPE as used in Subpart F 6 (§303.521) (Montana is not providing Part C services for children over three years of age - §303.211, §303.501), means special education and related services that:

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

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

§303.16 Health services

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

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

- services; and
- (2) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities needing to be addressed during providing other early intervention services.
- (b) The term does not include the following:
- (1) Services that are:
- Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);
 - Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or
 - 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 this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services identified in the child's IFSP as being needed to meet the child's developmental outcomes. Nothing in this part prevents the EIS provider from routinely checking either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;
- (2) Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and
- (3) Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.

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

§303.17 Homeless children

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

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

§303.18 Include; including

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

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

§303.19 Indian; Indian tribe

- (a) Indian means an individual who is a member of an Indian tribe.
- (b) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 *et seq.*).
- (c) Nothing in this definition is intended to indicate the Secretary of the Interior is required to provide services or funding to a State Indian Tribe not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.

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

§303.20 Individualized Family Service Plan.

Individualized family service plan (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 Subpart D 6.2 and D 6.4 (§303.321);
 - (b) Includes the content specified in Subpart D 7.5 through D 7.15 (§303.344);
 - (c) Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained (within 30 days) consistent with Subpart E 3.1 (§303.420); and
 - (d) Is developed in accordance with the IFSP procedures in Subpart D 7.3, D 7.4 and D 7.1 (a) (3) (§303.342, §303.343, and §303.345).
- (Authority: 20 U.S.C. 1401(15), 1435(a)(4), 1436)

§303.21 Infant or toddler with a disability

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

- (1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:
 - Cognitive development.
 - Physical development, including vision and hearing.
 - Communication development.
 - Social or emotional development.
 - Adaptive development; or
- (2) Has a diagnosed physical or mental condition that--has a high probability of resulting in developmental delay; and 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.

Montana instituted an Established Condition List in 2018.

- (b) Infant or toddler with a disability may include, at a State's discretion, an at-risk infant or toddler (as defined in Subpart A - §303.5). However, the definition of at-risk infants and toddlers in Subpart A - §303.5 is not included in the Montana's definition of developmental delay and, therefore, are not eligible to participate in the State's Part C early intervention program.
- (c) Infant or toddler with a disability may include, at a State's discretion, a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part until the child enters, or is eligible under State law to enter, kindergarten or elementary school, as appropriate. However, Montana does not provide Part C services to children ages three and older.

§303.22 Lead agency

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of the Act and Subpart B 11 (§303.120) receiving funds under section 643 of the Act to administer the State's responsibilities under Part C of the Act. In Montana, the lead agency is the Early Childhood and Family Support Division (ECFSD), Early Childhood Services Bureau, Department of Public Health and Human

Services.

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

§303.23 Local educational agency

General.

(a) Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

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

(1) Educational service agency, defined as a regional public multiservice agency: Authorized by State law to develop, manage, and provide services or programs to LEAs; and recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

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

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

- Is under the general supervision of a State; educational agency;
- Is established by State law for providing FAPE on a regional basis; and
- Provides special education and related services to children with disabilities within the State.

(c) Bureau of Indian Education (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 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 smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

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

§303.24 Multidisciplinary

Multidisciplinary means the involvement of two or more individuals from separate disciplines or professions with respect to:

(a) Evaluation of the child in Subpart B 4 (§303.113) and Subpart D 6.2 and D 6.4 (§303.321(a)(1)(i)) and assessments of the child and family in subpart D 6.2 and D 6.4 (§303.321(a)(1)(ii)), and may include one individual who is qualified in more than one discipline or profession; and

(b) The IFSP Team in Subpart D 7.3 (d) (§303.340) must include the involvement of

the parent/guardian and two or more individuals from separate disciplines or professions and one of these individuals must be the Family Support Specialist/Service Coordinator (consistent with §303.343(a)(1)(iv)).
(Authority: 20 U.S.C. 1221e-3, 1435(a)(3), 1436(a)(1), 1436(a)(3))

§303.25 Native language

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

- (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and
- (2) For evaluations and assessments conducted pursuant to Subpart D 6 (a) (3) (§303.321(a)(5) and (a)(6)), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(b) Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication normally used by the individual (such as sign language, Braille, or oral communication).

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

§303.26 Natural environments

Natural environments mean settings natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of Subpart B 17 (§303.126).

(Authority: 20 U.S.C. 1432, 1435, 1436)

§303.27 Parent

(a) Parent means:

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

(b) Clarification of parent:

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

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

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

§303.28 Parent training and information center

Parent training and information center (PTI) means a center assisted under section 671 or 672 of the Act. The Montana Empowerment Center is currently the PTI for the State.

(Authority: 20 U.S.C. 1401(25))

§303.29 Personally identifiable information (PII)

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

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

§303.30 Public agency

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

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

§303.31 Qualified personnel

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

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

§303.32 Scientifically based research

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

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

§303.33 Secretary

Secretary means the U. S. Secretary of Education.

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

§303.34 Service coordination services (case management)

General.

(a) **Service Coordination Services** mean services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including procedural safeguards, required under this part. In Montana, Family Support Specialists are Service Coordinators for Part C services. A child’s parent(s) may choose to act as their service coordinator for specific service coordination activities identified on their child’s and family’s IFSP. Each infant or toddler with a disability and the child’s family must be provided with one service

coordinator who is responsible for:

- Coordinating all services required under this part across agency lines; and
- Serving as the single point of contact for carrying out the activities described in paragraphs (a)(3) and (b) of this section.

Service coordination is an active, ongoing process that involves:

- Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this part; and
- Coordinating the other services identified in the IFSP under §303.344(e) needed by, or provided to, the infant or toddler with a disability and the child's family.

(b) Specific service coordination services

Service coordination services include:

- (1) Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;
- (2) Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) the child needs or is being provided;
- (3) Coordinating evaluations and assessments;
- (4) Facilitating and participating in the development, review, and evaluation of IFSPs;
- (5) Conducting referral and other activities to assist families in identifying available EIS providers;
- (6) Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure services are provided in a timely manner;
- (7) Conducting follow-up activities to determine appropriate Part C services are being provided;
- (8) Informing families of their rights and procedural safeguards, as set forth in subpart E of this part and related resources;
- (9) Coordinating the funding sources for services required under this part; and
- (10) Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.

(c) Use of the term service coordination or service coordination services.

The lead agency's or an EIS provider's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service covered by another payor of last resort (including Title XIX of the Social Security Act--Medicaid), for purposes of claims in compliance with the requirements of §§303.501 through 303.521 (Payor of last resort provisions). (Authority: 20 U.S.C. 1432(4), 1435(a)(4), 1436(d)(7), 1440)

§303.35 State

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

Islands.

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

§303.36 State educational agency

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

(b) The term includes the agency receiving funds under sections 611 and 619 of the Act to administer the States responsibilities under Part B of the Act.

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

§303.37 Ward of the State

General.

(a) Subject to paragraph (b) of this section, **Ward of the State** means a child who, as determined by the State where the child resides, is:

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

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

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

Subpart B – State Requirements for a Statewide System of Part C Early Intervention Services

B 1 General authority (§303.100)

Through a State grant from the Secretary, in accordance with Part C of the Act, Montana will maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

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

B 2 Grant Requirements and Assurances (§303.101)

B 2.1 Assurances regarding early intervention services and a statewide system.

Montana assures to the Secretary that:

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

- Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;
- Infants and toddlers with disabilities who are homeless children and their families; and
- Infants and toddlers with disabilities who are wards of the State.

(b) Montana has in effect a statewide system of early intervention services meeting the requirements of section 635 of the Act, including policies and procedures that address, at a minimum, the components required in §303.111 through §303.126 (Subpart B 5.2 through B 17).

B 2.2 State application and assurances

Through Montana's application, policies and procedures and supporting documentation, Montana provides assurance to the Secretary, in accordance with subpart C of this part, including:

(a) Information that shows the State meets the State application requirements in §303.200 through §303.212 (Subpart C 2.1 through C 13); and

(b) Assurances the State also meets the requirements in §303.221 through §303.227(Subpart C 14.1 through C 14.7).

B 2.3 Approval before implementation

Montana will obtain approval by the Secretary before implementing any policy or procedure required to be submitted as part of the State's application in §303.203 - (Subpart C 4.), §303.204 - (Subpart C 5), §303.206 - (Subpart C 7), §303.207 - (Subpart C 8), §303.208 – (Subpart C9), §303.209 – (Subpart C 10), and §303.211 (Subpart C 11).

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

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

B 3 State Conformity with Part C of the Act and Abrogation of State Sovereign Immunity

B 3.1 State conformity with Part C of the Act (§303.102)

Montana ensures any State rules, regulations, and policies relating to this part conform to the purposes and requirements of this part.

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

B 3.2 Abrogation of State sovereign immunity (§303.103)

General.

(a) A State is not immune under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of Part C of the Act.

(b) Remedies. In a suit against a State for a violation of Part C of the Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in a suit against any public entity other than a State.

(c) Effective date. Subpart B 3.2, paragraphs (a) and (b) of this section apply with respect to violations that occur in whole or part after October 30, 1990, the date of enactment of the Education of the Handicapped Act Amendments of 1990.

(Authority: 20 U.S.C. 1403)

B 4 Positive Efforts to Employ and Advance Qualified Individuals with Disabilities

Montana's employment policies and procedures make positive efforts to employ and advance in employment, qualified individuals with disabilities in programs assisted under Part C of the Act.

(Authority: 20 U.S.C. 1405)

B 5 Minimum Components of a Statewide System

B 5.1 Minimum components of a statewide system (§303.110)

Montana's statewide system includes, at a minimum, the components described in §303.111 through §303.126 (Subpart B 5.2 through B 17).

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1435(a))

B 5.2 Montana's Definition of Developmental Delay (§303.111)

Montana's rigorous definition of developmental delay is consistent with §303.10, §303.203(c) – (Subpart C 4), §303.21(a)(1), §303.111 (b 5.2), 303.321 (Subpart D 6.2, D 6.4)), and §303.21(a)(1).

[For a full description of evaluation and assessment related to this section, see Subpart D, post-Referral Procedures of Evaluations and Assessments §303.310 - §303.322. (Subpart D 6)].

(a) Definition

Montana's rigorous definition of developmental delay is consistent with §303.10, §303.203(c), §303.21(a)(1), §303.111 (B 5.2), §303.321 (Subpart D 6.2, D 6.4), and §303.21(a)(1).

Children from birth through age two, inclusive, are eligible for early intervention and family support services under Part C of the Individuals with Disabilities Education Act (IDEA) if they:

- (1) **Type I** - have an established physical or mental condition as diagnosed by a physician or psychologist that has a high probability of resulting in developmental delay (even though the delay may not exist at the time of diagnosis) which 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. (Montana instituted an Established

Condition List in 2018.)

(2) **Type II** - are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- Cognitive development;
- Physical development, including vision and hearing;
- Communication development;
- Social or emotional development; or
- Adaptive development.

(b) **Criteria for Infant or toddler with a developmental delay**

The criteria used in determining a child's eligibility as a result of developmental delay includes:

- (1) A minimum of 50% delay in any one of the developmental areas; or
- (2) A 25% delay in two or more of the developmental areas; and
- (3) A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child for eligibility) under Part C if those records indicate the level of functioning in one or more of the developmental areas (B 5.2 (a) (2)) constitutes a developmental delay or the child otherwise meets the criteria for an infant and toddler with a disability.
- (4) Qualified personnel must use **informed clinical opinion** when conducting evaluation(s) for determining eligibility for services under Part C, especially with children for whom there are no standardized measures, or for whom the standardized measures and procedures available are not appropriate for a given age or developmental level and assessments for IFSP program planning. In addition, informed clinical opinion may be used as an independent basis to establish child eligibility under Part C 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 for Part C.

(c) **Procedures to Determine the Existence of a Developmental Delay in Each Developmental Area** Included in Subpart B 5.2 (a) (2).

- (1) Any Montana child, birth through age two, suspected of having a developmental delay is eligible for diagnostic and evaluation services.
- (2) Each Montana child, birth through age two, suspected of having a developmental delay is entitled to a timely, comprehensive, multidisciplinary evaluation of functioning. Each family of such an infant or toddler is entitled to a family-directed identification of the needs of their family in order to appropriately assist in the development of the child.

Evaluation of the child relates directly to procedures for determining initial and continuing eligibility for Part C services. The evaluation process is designed to be a responsive and individualized set of procedures for determining eligibility in a fair and timely fashion. The process takes the unique characteristics of the child, the accumulated information about the child, and the child's family's choices regarding evaluation alternatives into consideration. The evaluation process is designed to provide the child's parents with appropriate information for making informed decisions regarding service options for their child and family. Evaluation procedures are

conducted by appropriate qualified personnel and include observations of the child in more than one setting when feasible. The evaluation must include:

- Administering an evaluation instrument;
- Taking the child's history (including interviewing the parent and other family members or caregivers, as appropriate);
- Identifying the child's level of functioning in each developmental area;
- 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
- Reviewing medical, educational and/or other records.

If in this process for Subpart D 6.4 where a child's medical and other records may be used to establish eligibility under Part C (without conducting an evaluation of the child for eligibility), and if the records indicate the level of functioning in one or more of the developmental areas (Subpart B 5.2, Subpart D 6.4) constitutes a developmental delay or the child otherwise meets the criteria for an infant and toddler with a disability (Subpart A, Subpart B 5.2) and if the child's eligibility is established in this way; the EIS agency must conduct assessments of the child and family in accordance to Subpart D 6.4,D 6.5. Using this process for eligibility determination will negate the need for completing all the above evaluation procedures (Subpart D 6.4).

Each child and family are assisted in the evaluation process by a specific staff member of the EIS agency such as an Intake Coordinator or a Family Support Specialist/Service Coordinator. Following the provision of prior written notice, evaluation procedures and alternatives are explained to parents in their native language or means of communication (e.g., sign language for a parent with a hearing disability, Crow tribal dialect for a mother who communicates best in that language). Parents' consent in writing is obtained before assessment and information gathering is initiated. Consent for release of information forms are completed for child records and for data gathered from previous evaluations or diagnosis. Parents have a choice as to the level of involvement and role they wish to play in the child evaluation process.

Unless clearly not feasible to do so, all evaluations and assessments of the child will be conducted in the native language of the child, in accordance with the definition of native language in Subpart A - §303.25.

Evaluation procedures are tailored to the type of eligibility criteria which appears most appropriate for qualifying a child (Type I - established condition or Type II - measured delay). The evaluation is individualized and multidimensional, meaning it is a comprehensive, integrated process across multiple domains, disciplines, or content areas, including informed clinical opinion.

(3) **Type I evaluation procedures:** eligibility evaluation is conducted by a qualified diagnostician (physician or psychologist) utilizing evaluation procedures

based on informed clinical opinion and/or diagnostic evaluations. The physician or psychologist completes Montana's Established Condition Statement.

(4) **Type II evaluation procedures:** eligibility evaluation is conducted by qualified personnel trained to complete evaluations in one developmental area (in cases where eligibility determination is based on a 50% delay in a specific developmental area), or across developmental areas (in cases where eligibility is based on 25% delay in two or more developmental areas). The following is a non-inclusive of qualified professionals to their appropriate areas:

- Cognitive Development: Psychologists, Special Educators;
- Physical Development: Occupational Therapists and Physical Therapists (motor), Audiologists (hearing), Optometrists and Ophthalmologists (vision);
- Communication Development: Speech and Language Pathologists/Therapists, Audiologists;
- Social or Emotional: Psychologists, Special Educators;
- Adaptive Development: Psychologists, Special Educators;
- Comprehensive (all developmental areas): Psychologists, Special Educators, Family Support Specialists/Service Coordinators, Public Health Nurses, Pediatricians.

(5) **Type II evaluation procedures** include:

- Direct use of reliable and valid screening and evaluation instruments/tests utilizing the guidelines of the instrument/test developer; and
- Informed clinical opinion based on systematic observation, interviews with primary caregivers, and clinical opinion rating scales and checklists.

(6) The **multidisciplinary evaluation team** includes:

- The child's family and others identified by the family who have knowledge of the child (e.g., child care providers, extended family members, other service providers);
- The Family Support Specialist/Service Coordinator; and
- At least one or more separate disciplines or professions related to the provision of Part C early intervention services. This is not to imply a child's evaluation must occur on one occasion with all evaluation team members present.

(7) The Family Support Specialist/Service Coordinator will discuss and review the evaluation data with the parents and other multidisciplinary evaluation team members to determine if the findings are consistent with any previous information collected; the parents' understanding of previous data and diagnosis; and the parents' and team's interpretation of any recent evaluation results.

(8) The Family Support Specialist/Service Coordinator, with the assistance of the multidisciplinary evaluation team members, discusses and reviews the results of the eligibility determination process with the family. Parents are able to discuss any concerns they have with the evaluation process or results. The Family Support Specialist/Service Coordinator provides information regarding service options for the child and family, including choosing *not* to pursue any or only specific services at this time.

When the child is found not to be eligible for Part C services or the parents disagree

with the evaluation findings, the Family Support Specialist/Service Coordinator discusses with the family due process procedures and provides the family with a copy.

For a child who appears to be clearly eligible* for Part C services, the effort focuses on child assessment and family information gathering processes for families interested in pursuing Part C services. It is not necessary to conduct new evaluations when previous evaluations, diagnoses, data, and informed clinical opinion indicate the child qualifies for Part C services. (***Type I** diagnosis has been established or evaluations meeting the requirements for **Type II** eligibility determination was completed previously or, in the clinical opinion of the multidisciplinary team, the child has characteristics of a level of development which, according to initial reports and/or observations, will make the child eligible.)

(10) All evaluation information (verbal and reports) must be free of jargon and terms subject to misinterpretation by individuals involved in the evaluation process. The evaluation reports are readable for families and professionals alike.

(11) All evaluation information, including evaluation reports, consent for release of information to obtain evaluation information, parental approval of evaluations, and contact records, are contained in individual records for each child/family.

(d) **Determination a child is not eligible** (§303.322).

If the EIS agency determines a child is not eligible under this part, based on the evaluation conducted under §303.321 (Subpart 6.4), the EIS agency will provide the parent/guardian with prior written notice as required in §303.421(Subpart E 3.2) which will include information on the parent's right to dispute the eligibility determination through dispute resolution mechanisms under §303.430 (Subpart E 5) (requesting mediation, a due process hearing or filing a State complaint.).

The Family Support Specialist/Service Coordinator will assist the family in determining their options, including utilizing other eligibility evaluation methods than those originally used to determine the child's eligibility and informing the family of their procedural safeguards/rights (see Subpart E). For those children who are receiving ongoing public health services, the EIS agency will notify the local public health agency the child is not eligible for Part C services. Public health services may be adjusted accordingly.

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

(e) **"At-Risk" Infants and Toddlers.** Children from birth through age two, inclusive, who are at risk of substantial developmental delays if early intervention services are not provided, are not included in the Montana's definition of developmental delay and are not eligible to participate in the State's Part C early intervention program.

The children may be eligible for early intervention services through other State discretionary programs. Every effort is made to assure the children are tracked, served through appropriate programs, and referred back to Part C should the need arise.

(1) **Use of Funds for "at risk" infants and toddlers.**

Part C funds may be used 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 or private community-based organizations, services and personnel for the purposes of:

- Identifying and evaluating at risk infants and toddlers;
- Making referrals of the infants and toddlers identified and evaluated under subparagraph (1);
- Conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under Part C.

B 3 Availability of early intervention services (§303.112)

Montana ensures appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including:

- Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;
- Infants and toddlers with disabilities who are homeless children and their families.
- Infants and toddlers who are from minority families, low income families, in foster care, wards of the state, born prematurely, and subjects of a substantiated case of child abuse or neglect and/or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

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

B 4 Evaluation, assessment, and nondiscriminatory procedures (§303.113)

B 4.1 Montana ensures the performance of:

- (a) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State; and
- (b) A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler (in accordance to the requirements of §303.321 (Subpart D 6.2, D 6.4)).

[See Subpart D 6]

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

(Authority: 20 U.S.C. 1435(a)(3))

B 5 Individualized Family Service Plan (IFSP) (§303.114)

Montana ensures, for each infant or toddler with a disability and his or her family in the State, that an IFSP, as defined in Subpart A - §303.20, is developed and implemented that meets the requirements of §303.340 through §303.345.

[See Subpart D 7]

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

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

B 6 Comprehensive Child Find system (§303.115)

Montana's early intervention system includes a comprehensive Child Find system meeting the requirements in §303.302 (Subpart D 4) and §303.303 (Subpart D 5).

[See Subpart D 4]

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

B 7 Public awareness program (§303.116)

Montana's early intervention system includes a public awareness program that:

- Focuses on the early identification of infants and toddlers with disabilities; and
- Provides information to parents of infants and toddlers through primary referral sources in accordance with §303.301 (Subpart D 2).

[See Subpart D 2, D 3]

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

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

B 8 Montana Central Directory, *Directory of Services for Persons with Intellectual Developmental Disabilities* (§303.117)

B 8.1 Montana's Central Directory policies and procedures are consistent with §303.117 (Subpart B 8) and §303.301 (b) (1) (2) – (Subpart D 2)

(a) The Montana Council for Developmental Disabilities develops and maintains a central directory of services information. Montana's Parent Training and Information center provides online resources which include:

- (1) Public and private early intervention services, resources and experts available in the State;
- (2) Professional and other groups (including parent support and training, and information centers such as those funded under this Act) to aid infants and toddlers with disabilities eligible under Part C and their families;
- (3) Research and demonstration projects being conducted in Montana relating to infants and toddlers with disabilities;
- (4) Description of the availability of Part C early intervention services in Montana; and
- (5) Description of how to refer a child under age of three for an evaluation or early intervention service under Part C.

(b) The *Directory of Services for Persons with Intellectual Developmental Disabilities* is developed and maintained by the Montana Council for Developmental Disabilities and is available for download at their website. Montana's Parent Training and Information Center (funded through the Act) provides online resources such as *First Steps: A Parent Information Handbook on Infant and Toddler Early Intervention and Preschool Special Education* and individualized assistance to help Montana parents and educators to support and enrich the lives of children with disabilities.

B 8.2 Assurances for §303.117

- (a) Montana assures the central directory is in sufficient detail to:
 - (1) Ensure the public will be able to determine the nature and scope of the services and assistance available from the sources listed in the directory; and
 - (2) Enable the parent of a child potentially eligible for Part C services to contact, by telephone, website links, letter or e-mail, any of the sources, including State and regional EIS agencies, listed in the directory.
- (b) Montana assures the central directory is:
 - (1) Accessible to the public;
 - (2) Available in each geographic region of the state, including rural areas; and
 - (3) Available in places and a manner accessible to persons with disabilities.
- (c) The central directory is updated at least annually.

B 9 Comprehensive System of Personnel Development (CSPD-C)

B 9.1 Part C Comprehensive System of Personnel Development

Montana's CSPD-C policies and procedures are consistent with §303.118 (Subpart B 9).

(a) The ECFSD originally adopted Montana's Comprehensive System of Personnel Development (CSPD-B) which was developed by Montana's Office of Public Instruction (State Lead Agency for Part B). CSPD-C includes additions to CSPD-B in the following Components to clearly reflect requirements of §303.118. The CSPD-C system is based on:

- (1) Participatory Planning (Input and Implementation);
- (2) Needs Assessment;
- (3) In-service;
- (4) Preservice; and
- (5) Dissemination and Adoption.

The CSPD-C is linked to Montana's Part C Personnel Standards including the refinement and maintenance of a certification process for **Family Support Specialist/Service Coordinator** (FSS). The FSS is a multidisciplinary early intervention position which has been the central professional position in delivering service coordination, family training, home visits, and specialized instruction on a statewide basis since 1977. **Intake Coordinators** are the persons responsible for support activities associated with initial referral and eligibility determination activities at some EIS agencies. **Family Support Specialist Assistant** (FSSA) is the paraprofessional position responsible for providing early intervention services under the supervision of a comprehensively certified FSS. The FSSA may provide services to a specific ethnic/cultural population (e.g. Native American Indians living on a reservation) and/or early intervention services in rural regions of Montana where it is difficult to recruit contracted early intervention personnel. The Family Support Services Advisory Council endorsed the titles Family Support Specialist, Intake Coordinator, and Family Support Specialist Assistant.

The CSPD-C directly relates to educational activities (preservice and in-service) for early intervention professional service providers identified in Montana's Part C, including: Family Support Specialists/Service Coordinators, special educators, speech and language therapists, audiologists, occupational therapists, pediatricians and physicians, physical therapists, psychologists, social workers, family therapists, nurses, registered dieticians/nutritionists, orientation and mobility specialists, vision specialists (including ophthalmologists and optometrists) and hearing specialists (which may be special educators). Educational opportunities are made available to early intervention service professionals (Family Support Specialist Assistants and Intake Coordinators), and professionals (e.g., primary referral source personnel, child care providers, social services including CAPTA providers) who provide direct or related early intervention services.

(b) In order to promote coordination between the CSPDs for C and B, Montana's Part C Coordinator and EIS personnel are also members of the CSPD-B, at either the State or regional level.

B 9.2 CSPD-C Assurances (§303.118)

The ECFSD assures the implementation of the CSPD-C in accordance with

§303.118.

- (a) Technical assistance and support for preservice and in-service training is conducted on an interdisciplinary basis when appropriate.
- (b) Technical assistance and support for training a variety of personnel needed to meet the requirements of Part C, including public and private providers, primary referral sources, paraprofessionals, families, and persons who will serve as service coordinators (see Family Support Specialist/Service Coordinator, Intake Coordinator, and Family Support Specialist Assistant).
- (c) The early intervention education activities relate specifically to:
 - (1) Understanding the basic components of early intervention services available in the State, including Part C service referral processes;
 - (2) Meeting the interrelated social or emotional, health, developmental, and educational needs of eligible children under this part;
 - (3) Assisting families in enhancing the development of their children and participating fully in the development and implementation of IFSPs;
 - (4) Implementing innovative strategies and activities for the recruitment and retention of EIS providers;
 - (5) Promoting the preparation of EIS providers who are fully and appropriately qualified to provide Part C early intervention services;
 - (6) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from Part C early intervention services to a preschool program under section 619 of the Act, Head Start, Early Head Start, or another appropriate program;
 - (7) Training personnel to work in rural and inner-city areas, including working with specific populations; and
 - (8) Training primary referral sources concerning the basic components of early intervention services in Montana.

B 9.3 Additions to CSPD-B for CSPD-C

Montana's Office of Public Instruction's CSPD-B served as the foundation for the ECFSD's CSPD-C. To reflect the planning for and the scope of educational opportunities and activities which will be available for personnel involved in primary referral and early intervention professionals and paraprofessionals, the CSPD-B was modified to strengthen the early intervention and family-centered focus for the CSPD-C. CSPD-C training emphasizes the delivery of home- and community-based services. CSPD-C addresses topics primarily related to Part C early intervention services which reflect the unique characteristics of infants/toddlers with disabilities and families. CSPD-C promotes and provides training in areas of overlap between Part C and Part B 619 services, such as transition from Part C to Part B preschool services.

(a) Participatory Planning

Participatory planning in preparing for the CSPD-C includes the involvement of other planning and service personnel, programs, and councils.

The FSSAC may form a committee for CSPD and Personnel Standards for Part C (CSPD-C Committee). The Committee may include FSSAC members who are representatives from institutions of higher education with responsibility for educating special education and human service personnel. The CSPD-C Committee advises

the lead agency by identifying long-term Part C personnel development needs in Montana and makes recommendations for the development of plans regarding preservice and in-service education activities for Part C personnel development.

(b) Needs Assessment

The CSPD-C includes the assessment of personnel and program development information.

- (1) The ECFSD, in collaboration with other organizations, conducts periodic surveys of the EIS agencies' staff to seek input regarding topics and formats for training and facilitators for conducting training activities. The personnel of each EIS agency have opportunity to provide input to determine their priority training needs related to early intervention services.
- (2) The Part C Coordinator and OPI's Preschool Specialist engage local Part C and Part B personnel involved with transition in joint training to implement smoother transitions for children exiting from Part C services and entering Part B or other services. Transition training and follow-up technical assistance is available upon request by local school districts, EIS agencies and other service providers.
- (3) Ongoing activities to update and refine the Family Support Specialist certification system and determine training and technical assistance needs related to the competencies and the certification system result in the requirements for Family Support Specialist Comprehensive Certification.
- (4) The FSSAC continues to develop plans to coordinate training opportunities, influence the delivery of personnel development to meet the competencies identified for Family Support Specialist, Family Support Specialist Assistant and Intake Coordinator, and expand input regarding personnel development needs of early intervention professionals who may not be directly employed by EIS agencies (e.g., private practice occupational therapists, public health nurses). The primary focus of all training is to provide educational opportunities designed to enable early intervention professionals working at EIS agencies and persons preparing for those professions to meet the ECFSD's certification requirements for the Family Support Specialist/Service Coordinator, Intake Coordinator and Family Support Specialist Assistant positions.
- (5) The Best Beginnings Advisory Council is designed to support collaboration and coordination of early childhood services and initiatives across the broader early childhood system.

B 9.4 In-service Training

The in-service personnel development activities of the CSPD for early intervention professionals:

- (a) Early intervention learning modules accessible via virtual learning environments developed by collaborative partners, agencies, other Part C State Systems to combine resources to support and coordinate in-service personnel development.
- (b) EIS agencies plan and implement ongoing personnel development activities for their staff, and when appropriate, professionals from other agencies and schools.
- (c) Innovative methods are utilized to build in-service training into program or project development activities such as the Statewide Systemic Improvement Plan continuous improvement activities linked to evidence-based practices.

- (d) In-service personnel development activities target EIS agency personnel and also aspire to provide in-service training activities for early intervention and community-based service professionals (see Component 9), paraprofessionals, and primary referral personnel.
- (e) A primary focus for in-service training is to provide educational opportunities designed to enable early intervention professionals working in EIS agencies to meet certification requirements for the Family Support Specialist and Family Support Specialist Assistant positions including both regulatory requirements and Montana's chosen evidence-based practices that include the coaching interaction style, family-guided routines, and home visits to promote and build family capacity.
- (f) Each EIS agency develops and maintains an orientation and in-service training program for their personnel, including Family Support Specialist/Service Coordinator, Intake Coordinator, and Family Support Specialist Assistants (where appropriate). Training includes the early intervention information necessary to provide Part C services and may target issues/problems indigenous and specific to each service area.

B 9.5 Pre-service Training

Montana colleges and universities grant degrees which allow individuals to practice their profession in the following related disciplines:

- early childhood education
- K-12 education
- special education;
- physical therapy;
- nursing;
- nutrition;
- psychology;
- speech and language pathology; and
- social work.

B 9.6 Dissemination and Adoption

To augment the dissemination and adoption activities of the CSPD for early intervention professionals and parents, ECFSD identifies resources for dissemination of materials related to early intervention and family-centered services including:

- (a) The Parent Training and Information Center (funded through the Act) provides information, referrals, support, and parent education services. The Center also serves as a valuable information resource for primary referral sources and early intervention professionals especially as the information relates to parents, families and sibling issues, including parent rights; support groups; due process and other procedural safeguards; parent education; and related materials. The Parent Training and Information Center works to ensure that families receive training and information on their rights, responsibilities, and protections under IDEA so they can actively participate in planning and decision making that affects their children.
- (b) Local EIS agencies also have on-site libraries which include early intervention materials. Materials are used for personnel orientation, certification training, in-service education, reference, and parent education. All EIS agencies develop brochures and informative materials for primary referral sources regarding early intervention services available in Montana. The materials continue to be refined and

disseminated statewide as part of the agencies' public awareness and child find efforts.

(c) The ECFSD supports and coordinates the provision of training and technical assistance services for EIS agency personnel and other early intervention professionals. The ECFSD is involved in the in-service training described in Component 8.3.3. The ECFSD helps to coordinate technical assistance designed to assist in implementing new or augmented services and training related to those efforts.

(d) Montana's Deaf-Blindness Program provides additional dissemination and referral sources for information regarding Part C services in Montana. The program's services include assistance with identification of children with sensory impairments, on-site technical assistance, a lending library, and access to programs, professionals, and parents involved with individuals who are deaf-blind and their families, and individualized training resources.

(e) The Rural Institute's Child Care Plus+ Project (CCP+) is a vital link for referrals and information dissemination to Montana's child care providers. While assisting Montana's care settings professionals to successfully include children with disabilities, CCP+ also serves as a training, referral, and information dissemination link for Part C services in Montana.

B 10 Personnel Standards

B 10.1 Montana Policies and Procedures for Early Intervention Personnel Standards

Montana personnel standards for early intervention personnel are consistent with §303.119.

The ECFSD assures entry level requirements for early intervention professionals providing Part C early intervention services meet Montana's highest established certification or licensing standards for their individual occupations in accordance to §303.119. With the advent of Part C services in Montana, the State developed, implemented and maintains a system of personnel standards which requires the use of state-credentialed paraprofessionals and professionals to provide a broad range of services to eligible children and their families. Definitions applicable to these standards include "Appropriate professional requirements in the State" meaning entry level requirements that:

- (1) are based on the highest requirements in Montana which are applicable to the profession or discipline in which a person provides early intervention services; and
- 2) which establish suitable qualifications for personnel providing early intervention services to eligible children and families served by State, local, and private agencies.

"Highest requirements in the State applicable to a specific profession or discipline" means the highest entry-level academic degree needed for State approval or recognized certification, licensor, registration, or other requirements applying to the profession or discipline. "Profession or discipline" means a specific occupational category that:

- (1) provides early intervention services to eligible children/families;
- (2) established or designated by Montana; and
- (3) has a required scope of responsibility and degree of supervision.

“State approved or recognized certification, licensor, registration, or other comparable requirement” means the requirements the Montana State Legislature enacted and/or authorized a State agency to promulgate through rules to establish entry-level standards for employees in a specific profession or discipline.

(a) The following personnel must meet State Board of Occupational Licensing's highest requirements for each entry level position to provide Part C early intervention services to Part C eligible children and their families under Part C:

- Audiologist
- Speech/Language Pathologist
- Physical Therapist
- Occupational Therapist
- Optometrist
- Ophthalmologist
- Psychologist
- Family Therapist
- Registered Professional Nurse
- Registered Dietician or Licensed Nutritionist
- Physician or Pediatrician
- Social Worker/Professional Counselors

(b) The following personnel must meet the Office of Public Instruction's (State Education Agency) highest certification requirements for each entry level position in order to provide Part C early intervention services to Part C eligible children and their families under Part C:

- Special Education Teacher
- Teacher
- School Psychologist
- Adaptive Physical Education Teacher
- Special Education Supervisor

(c) New Family Support Specialists/Service Coordinators must be certified as having met the Primary Certification requirements for Family Support Specialist/Service Coordinator employed by contracted EIS agencies in order to provide Part C early intervention services, including service coordination (see definitions, Subpart A - §303.34), to Part C eligible children and their families under Part C: an application process which describes their academic credentials (including verification of a bachelor's degree in a human services field); experience serving young children with disabilities and their families; and letters or signatures of verification regarding their relevant experience.

If a new FSS chooses, she or he may immediately apply for Comprehensive Certification. After two years of Primary Certification, a FSS must meet the Comprehensive Certification requirements for Family Support Specialist/Service Coordinator employed by contracted EIS agencies in order to continue to provide Part C early intervention services, including service coordination, to Part C eligible children and their families under Part C.

(d) Intake Coordinators must meet the Primary Certification requirements for Family Support Specialist/Service Coordinator employed by contracted EIS agencies in order

to provide Part C early intervention services, including service coordination, to Part C eligible children and their families under Part C.

If a new Intake Coordinator chooses, she or he may immediately apply for Comprehensive Certification. In some EIS agencies, the functions of the Intake Coordinator position may be completed by the Family Support Specialist/Service Coordinator. In other EIS agencies, the Intake Coordinator position limits activities only to assisting entry into the program and eligibility determination, thus their involvement with children and families may not encompass all Part C early intervention services provided by the EIS agency. After two years of Primary Certification and job experiences associated with the Family Support Specialist/Service Coordinator position, an Intake Coordinator may apply for Comprehensive Certification for Family Support Specialist/Service Coordinator employed by contracted EIS agencies to provide Part C early intervention services, including service coordination, to Part C eligible children and their families under Part C.

(e) Family Support Specialist Assistants must meet certification requirements for Family Support Specialist Assistants employed by contracted EIS agencies to provide Part C early intervention services, including service coordination, under the supervision of a Comprehensively Certified Family Support Specialist, to Part C eligible children and their families under Part C.

Note: The Family Support Specialist Assistant (FSSA) position was developed and is utilized in part to meet the personnel needs for serving Native American families who live on reservations in Montana and for EIS agencies serving the most rural and remote parts of Montana. Historically, EIS agencies have been unable to recruit adequate numbers of Native Americans with appropriate Family Support Specialist qualifications for either Primary or Comprehensive certification. When FSSAs are working in conjunction with Native Americans who work in some human, educational or health service capacity on Montana's reservations, the FSSAs are more effective in providing early intervention services. The FSSA position is designed to allow EIS agencies to directly recruit Native Americans (primarily parents of children with disabilities) and others who live in rural and remote parts of the State but do not meet the bachelor's degree component of FSS certification to work solely in the capacity of Family Support Specialist Assistant. Without this certification option, FSS positions may go unfilled for long periods of time. FSSAs receive the same training an FSS receives to move from Primary Certification to Comprehensive Certification.

B 10.2 Steps to Certify, Recertify and Retain Personnel to Meet Appropriate Professional Requirements

(a) Periodically, the ECFSD reviews requirements applying to Primary and Comprehensive Certification for Family Support Specialists/Service Coordinators, Intake Coordinators, and Family Support Specialists Assistants in an effort to assure the professionals are highly qualified.

(b) ECFSD developed, and continues to implement, a two-step certification process for the Family Support Specialist profession. The first step of the certification process requires an individual to obtain Primary Certification. This certification is contingent on the individual completing an application process which describes their academic credentials (including verification of a bachelor's degree in a human services field);

experience serving young children with disabilities and their families; and letters or signatures of verification regarding their relevant experience. Individuals issued Primary Certification have two years to meet the requirements for the final certification step which results in Comprehensive Certification.

Comprehensive Certification is competency-based, utilizing the most recent version of the Division of Early Childhood's Recommended Practices for early intervention practitioners. Individuals seeking Comprehensive Certification are required to submit an experience-based portfolio of their work with children and families reflecting their competence in each of the recommended practices which is reviewed by the Certification Panel (made up of the Part C Coordinator, ECFSD administrator(s) and member(s) of the Family Support Services Advisory Council). Individuals meet with the Certification Panel which uses an interview process determining the individual's knowledge and abilities based on the competencies as outlined in the DEC's Recommended Practices. Upon completion of the portfolio review and the interview, the Panel will recommend either Comprehensive Certification or recommendations for training necessary to the achievement of Comprehensive Certification.

(c) ECFSD developed and continues to implement, the same a two-step certification process for the Intake Coordinator. Even though the Intake Coordinator may primarily perform activities related to assisting families through the referral process for EIS agency services, the qualifications, skills and competencies necessary for the Intake Coordinator position closely match those of the Family Support Specialist/Service Coordinator.

(d) ECFSD developed and continues to implement, a certification process for the Family Support Specialist Assistant. The certification process for Family Support Specialist Assistant is based on requirements for Primary Certification with the exception of verification of a bachelor's degree in a human services field. Family Support Specialist Assistants provide Part C early intervention services to eligible children and families under the direct supervision of comprehensively certified Family Support Specialists/Service Coordinators. Even though the Family Support Specialist Assistant is associated with many of the same early intervention activities as the Family Support Specialist/Service Coordinator, they are not required to meet the same certification requirements since they will not provide services independent of a supervising comprehensively certified Family Support Specialist/Service Coordinator. ECFSD requires Family Support Specialist Assistants to have skills and competencies in the same early intervention categories (e.g., child assessment, IFSP planning, service coordination, procedural safeguards) as the Family Support Specialist/Service Coordinator, but not at the advanced levels required for comprehensively certified Family Support Specialists/Service Coordinators.

(e) Except under extraordinary circumstances, ECFSD requires EIS agencies which employ Family Support Specialists/Service Coordinators to assure all FSSs holding Primary Certification meet the Comprehensive Certification requirements within a two-year time period from the date of their Primary Certification. Five EIS agencies contract with ECFSD to provide Part C early intervention services in their specific geographic regions, thus ensuring services are accessible Statewide. The EIS agencies' staff have been involved in the development of the Family Support Specialist certification requirements and processes. ECFSD personnel and EIS

agencies work together to continue implementation of the certification and recertification program.

ECFSD supports implementation of the following steps for (i) ongoing training of Montana's Primary and Comprehensively Certified FSSs; (ii) hiring personnel who meet FSS certification requirements; and (iii) notifying EIS agencies and personnel of training and hiring requirements.

- (1) Through the participatory planning process, ECFSD and FSSAC supports, coordinates, and assists in providing information for a variety of in-service training opportunities for FSSs and other early intervention personnel. ECFSD supports the development of and provision of in-service training opportunities directly addressing the specific Primary and Comprehensive Certification requirements. Addressing certification competencies continues to be given the highest in-service training priority by the ECFSD.
 - (2) ECFSD and FSSAC advocate for the provision of training opportunities related to certification competencies to be provided through Montana's colleges and universities. Additionally, virtual learning strategies are developed, sought out and disseminated to EIS agencies including the development of online learning platform(s). ECFSD and FSSAC continue to support the development of in-service and preservice early intervention personnel development programs where ever opportunities for funding exists.
 - (3) Montana's Early Childhood Practitioner's Registry tracks individuals through the FSS certification process and provides assurance via reporting tools that Family Support Specialists/Service Coordinators holding Primary Certification achieve Comprehensive Certification by the two-year time line.
 - (4) ECFSD, through FSSAC meetings, CSPD meetings, meetings with ECFSD personnel, training sessions with FSSs, and in written memorandums and letters, continue to update FSSs, EIS agencies and other public agencies (e.g., public health departments, State Medicaid officers, and other State agencies) of the certification requirements for FSS personnel. Each EIS agency informs their new FSS personnel about the FSS certification requirements and procedures, including opportunities for required training.
- (g) The Family Support Specialist Assistant (FSSA) works under the direct supervision of a comprehensively certified Family Support Specialist/Service Coordinator to perform a variety of early intervention activities and services. FSSA responsibilities may include child assessment, family information gathering, IFSP planning, service coordination, and procedural safeguards. When the FSSA provides direct services to children and families, she/he receives direct, systematic supervision of the services through weekly (minimum requirement) instruction, review and feedback from the comprehensively certified FSS. Direct supervision by the comprehensively certified FSS will include periodic observation; review of notes, worksheets, program plans, records and documents; problem-solving activities; and regular discussion in person with the FSSA. The FSSA performs independent home visits only after extensive program experience and training preparation, and only with frequent and direct supervision by the comprehensively certified FSS. FSSA personnel may come from a variety of cultural, experiential, and educational backgrounds. The minimum educational requirement for the FSSA is a completed

high school education (diploma) or equivalent. The FSSAs often bring cultural background and experience representing the languages and cultures of families served. Additionally, FSSAs who are parents (particularly parents who have young children with disabilities or delays) may also bring a unique family perspective to the EIS agencies.

FSSA Primary certification process involves the submission of credentials and verifying information as required through the certification application process. Review and approval of this information by ECFSD staff is followed by the issuance of a FSSA Primary Certificate. The ECFSD requires EIS agencies which employ FSSAs early intervention personnel to assure FSSAs apply for Primary certification immediately upon hire, to assure ongoing FSSA training needs are met, and to assure all employed FSSAs meet the FSSA Primary Certification requirements. The EIS agencies were involved in the development of FSSA Primary Certification requirements. Training and hiring steps were established with the assistance of EIS agencies and personnel required to comply with FSSA Primary Certification requirements. ECFSD and EIS agencies continue to work together to provide FSSAs with ongoing training. Whenever appropriate, FSSA and FSS training are combined. ECFSD implemented the following steps for training of FSSAs, hiring personnel who meet FSSA Primary Certification requirements, and notifying EIS agencies and personnel of training and hiring steps:

- (1) Through the participatory planning process outlined in the CSPD-C (Subpart B 10), ECFSD and FSSAC support, coordinate, and provide planning information for a variety of in-service training opportunities for FSSAs and other early intervention personnel. The ECFSD supports the development of in-service training opportunities which address specific FSSA job requirements.
 - (2) ECFSD, with the assistance of FSSAC and EIS agencies, supports the development and implementation of training curriculum and training opportunities which address the knowledge and skill needs of FSSAs, including service coordination.
 - (4) Strategies for virtual education continue to be promoted to reach individuals in rural-remote areas of the State.
 - (5) Montana's Early Childhood Practitioner's Registry tracks individuals through the FSSA certification process and provides assurance via reporting tools that FSSA personnel meet the FSSA Primary certification standards.
 - (6) The ECFSD, through the FSSAC, other meetings and in writing, continues to inform EIS agencies and other public agencies of the certification requirements for FSSA personnel. EIS agencies were involved in the development of FSSA certification requirements and process.
- (h) Should need arise, the State may adopt a policy including ongoing, good-faith efforts to recruit and hire appropriately trained personnel. The policy will stipulate, due to personnel shortages in a geographic area, the most qualified individuals available who are making satisfactory progress toward completing State standards within three years, may be employed (§303.119 (d)).

B 11 Montana's ECFSD Role in Supervision, Monitoring, Funding, Interagency Coordination, and other Responsibilities (§303.120)

ECFSD is responsible for the general administration, supervision, monitoring, funding,

interagency coordination and related responsibilities used by Montana to carry out Part C early intervention services, whether such programs are receiving assistance under Part C, to ensure compliance with Part C regulations. This authority was established in Montana law at 53-20-205 MCA. The ECFSD adopted and will continue to use proper methods of administering the Part C program within the State (See Subpart H 1) including:

B 11.1 Supervision and monitoring

- (a) The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act.
- (b) The monitoring of programs and activities used by Montana to carry out Part C of the Act (whether the programs or activities are administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including:
 - (1) Monitoring agencies, institutions, organizations, and EIS providers used by the State to carry out Part C of the Act;
 - (2) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these regulations;
 - (3) Providing technical assistance, if necessary, to those agencies, institutions, organizations, and EIS providers;
 - (4) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and
 - (5) Conducting the activities in paragraphs Subpart B 14.1 (b) (1) through (4) of this section, consistent with §303.700 through §303.707, and any other activities required by the State under those sections.

B 11.2 ECFSD is responsible for the identification and coordination of all available resources for early intervention services within Montana, including those from Federal, State, local, and private sources, consistent with Subpart F (F 1 through F 5) of this part (Part C Federal Rules and Regulations).

[See Subpart F 4.1 (a)]

B. 11.3 ECFSD is responsible for the assignment of financial responsibility in accordance with Subpart F of this part.

[See Subpart C 3; F 4.1 (a)]

B 11.4 ECFSD established procedures in accordance with Subpart F of this part to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.

[See Subpart F 3.2]

B 11.5 ECFSD established procedures for the resolution of intra- and interagency disputes in accordance with Subpart F of this part.

[See Subpart F 4.3]

B 11.6 ECFSD established procedures for entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with Subpart F 4 (§303.511), that define the financial responsibility of each agency for paying for early intervention services (consistent with State

law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in Subpart F of this part.

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

(Authority: 20 U.S.C. 1416, 1435(a)(10), 1442)

[See Subpart F 4.2]

B 12 Policy for Contracting or Otherwise Arranging for Services (§303.121)

B 12.1 ECFSD Contracting policy

ECFSD established a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of the Act, including the contents of the application, and the conditions of the contract or other arrangements. The policy requires:

- (a) All early intervention services must meet State standards and be consistent with the provisions of this part; and
- (b) Be consistent with the Education Department General Administrative Regulations in 34 CFR part 80.

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

(Authority: 20 U.S.C. 1435(a) (11))

B 12.2 ECFSD Contracting Requirements and Procedures

- (a) ECFSD contracts with for-profit or non-profit, private corporations governed by local boards of directors to provide Part C early intervention services to eligible children and their families who meet Montana's definition of developmental delay.
- (b) In order to provide Part C early intervention services under IDEA, EIS agencies are selected following Montana's Procurement Act (**Montana Code Annotated 2019, Title 18. Public Contracts, Chapter 4. Montana Procurement Act**). ECFSD contracts with five EIS agencies. Contracts are written for a period of three years and may be granted an additional one-year contract extension(s).
- (c) Contracts define the services to be provided, establish performance requirements, and set the amount and source of compensation that the EIS provider will be reimbursed. Contracts commit ECFSD to providing and/or supporting training and technical assistance as mutually agreed upon by the parties.
- (d) Monitoring Policies and Procedures include program compliance reviews annually conducted by ECFSD staff which encompass multiple sources of evaluation information including FSSAC parent representative input, on-site visits with children and families in services, consumer surveys, financial audits, personnel certification information, internal evaluation information, and system praise or complaint information. Periodically, the review also includes an on-site examination of the agency's child and family files and program management policies.

ECFSD provides a written summary of all findings and recommendations to each provider within its letter of determination. In the event the review indicates noncompliance with the terms and conditions of the contract (including all requirements under Part C), the agency must submit, within thirty (30) calendar days of receipt, a written improvement plan detailing actions and time lines for correcting the deficiencies. ECFSD must respond in writing within fifteen (15) days of receipt of such plan, accepting or suggesting modifications to the plan and establishing a date

to evaluate progress of the plan.

(e) Contracted EIS providers are required to maintain an accounting system conforming to Generally Accepted Accounting Principles which can be audited. Funds for each program of service are accounted for separately and financial reports are submitted to the ECFSD.

(f) Contracted EIS providers must comply with State licensing requirements, State and Federal regulations, Montana's administrative rules and ECFSD policies.

(g) If not disposed of by negotiation and agreement, disputes relating to the contract are to be heard by a hearings officer from the Attorney General's Agency Legal Services Bureau. After a full hearing, the hearings officer submits a proposed decision to the Department Director for a final decision. Further appeal is through the judicial process.

B 13 Reimbursement procedures (§303.122)

Montana established procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with Subpart F of this part (§303.510 (b) Interim payments - reimbursement).

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

(Authority: 20 U.S.C. 1435(a) (12), 1440(a))

[See F 3.2]

B 14 Procedural safeguards (§303.123)

Montana established procedural safeguards meeting the requirements of Subpart E of this part.

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

(Authority: 20 U.S.C. 1435(a) (13), 1439)

[See Subpart E, E 1 through E 8]

B 15 Data Collection (§303.124)

B 15.1 Montana established a data system for compiling and reporting timely and accurate data that meets the requirements in Subpart B 15.2 of this section and Subpart H 1 through H 3 (§303.700 through §303.702) and Subpart H 8 through H 12 (§303.720 through §303.724).

[See Subpart H 1 – H3 and Subpart H 8 – H 12]

B 15.2 Montana's data system required in Subpart B 15.1 of this section includes a description of the process that the State uses to compile data on infants or toddlers with disabilities receiving early intervention services under this part, including a description of the State's sampling methods, when sampling is used, for reporting the data required by the Secretary under sections 616 and 618 of the Act and Subpart H 1 through H 3 (§303.700 through §303.702) and Subpart H 8 through H 12 (§303.720 through §303.724).

[See Subpart H 1 – H3 and Subpart H 8 – H 12]

(Approved by Office of Management and Budget under control number 1820-0550, 1820-0557 and 1820-0578)

(Authority: 20 U.S.C. 1416, 1418(a)-(c), 1435(a)(14), 1442)

B 16 State interagency coordinating council (§303.125)

Montana established a State Interagency Coordinating Council named the Family Support Services Advisory Council (FSSAC) meeting the requirements of Subpart G of this part.

[See Subpart G, G 1 through G 6]

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

(Authority: 20 U.S.C. 1435(a) (15))

B 17 Early intervention services in natural environments (§303.126)

Montana's Part C policies and procedures ensure, consistent with §303.13(a)(8) (early intervention services), §303.26 (natural environments), and §303.344(d)(1)(ii) (content of an IFSP) (Subpart D 7.5 through D 7.15), early intervention services for infants and toddlers with disabilities are provided:

B 17.1 To the maximum extent appropriate, in natural environments; and

B 17.2 In settings other than the natural environment deemed most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

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

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

[See Subpart A - §303.13(a) (8) (early intervention services), §303.26 (natural environments); Subpart C, C 4.1; Subpart D 7.2, D 7.13]

Subpart C - State Application and Assurances

C 1 General.
C 1.1 State application and assurances (<u>§303.200</u>)
Montana's application and related policies and procedures address:
(a) The specific State application requirements (including certifications, descriptions, methods, and policies and procedures) required in §303.201 through §303.212 (Subpart C 2.1 through C 13); and
(b) The assurances required in §303.221 through §303.227 (Subpart C 14.1 through C 14.7).
(Approved by Office of Management and Budget under control number 1820-0550) (Authority: 20 U.S.C. 1437)
C 2 Application Requirements
C 2.1 Designation of lead agency (<u>§303.201</u>)
Montana's Department of Health and Human Services, Early Childhood and Family Supports Division (ECFSD), is designated by the Governor of Montana as the lead agency with a single line of responsibility for purposes of administering the Part C (IDEA) Program for Infants and Toddlers with Disabilities, and entirely responsible for assigning financial responsibility among appropriate agencies. The Early Childhood and Family Supports Division (ECFSD) is responsible for the administration of funds provided under Part C. The ECFSD assures all the requirements under the Part C Statutes and Rules and Regulations (34 CFR Parts 300 and 303) are addressed in the Part C application and related policies and procedures (§303.120; Subpart B 11). (Approved by Office of Management and Budget under control number 1820-0550) (Authority: 20 U.S.C. 1437(a)(1))
C 3 Certification regarding financial responsibility (<u>§303.202</u>)
Montana's ECFSD certifies to the Secretary that Montana established arrangements for financial responsibility for the provision of Part C services among appropriate public agencies under Subpart F 4 (§303.511) and the ECFSD's contracts with EIS providers regarding financial responsibility for the provision of Part C services both meet the requirements in Subpart F of this part (§303.500 through §303.521; Subpart F 1 through F 6) and are current as of the date of submission of the certification. (Approved by Office of Management and Budget under control number 1820-0550) (Authority: 20 U.S.C. 1437(a)(2))
C 4 Statewide system and description of services (<u>§303.203</u>)
Montana's Part C application includes:
<ul style="list-style-type: none">• A description of services to be provided under this part to infants and toddlers with disabilities and their families through the State's system.• Montana's policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under Subpart F of this part and including policies or procedures adopted by the State as its system of payments that meet the requirements in Subpart F 3 (§303.510), Subpart F 5 (§303.520) and Subpart F (§303.521) regarding the use of public insurance or benefits, private insurance, or family costs or fees F 5); and methods used by the State to implement the requirements in Subpart F 4 - 303.511(b)(2) and (b)(3).[See Subpart F]

- The States rigorous definition of developmental delay as required under §303.10 and §303.111 (Subpart B 5.2) [See Subpart B 5.2]

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1432(3), 1432(4)(B), 1432(4)(C), 1435(a)(1), 1435(a)(10)(B), 1437(a)(3), 1440)

C 4.1 A description of services to be provided under this part to infants and toddlers with disabilities and their families through the States system.

(a) Overview description of services: (not the details contained in the appropriate Subpart).

Montana has provided home-based early intervention services for children with disabilities and their families since 1975. Montana's service delivery system has undergone improvements and changes and evolved into a system that is natural environment-based, family centered, and designed to meet the unique circumstances found within our rural state (i.e., small, dispersed population with few population centers, significant Native American Indian population, vast distances between population centers, limited number of health and human services professional staff available for in-person service provision; and the resulting challenges to the provision of health, human and educational services).

The lead agency, the Department of Public Health and Human Services, Early Childhood and Family Supports Division (ECFSD) contracts with five regional independent early intervention service providers to provide Part C early intervention services in Montana. In this document, the early intervention service providers are referred to as Early Intervention Service (EIS) providers, contractors, or agencies. Each EIS provider is responsible for Part C early intervention services in all counties of their designated regional catchment area. EIS agencies are monitored annually to ensure compliance and to ensure results as set out by the Part C of the IDEA which includes the sixteen major components and other requirements as outlined.

Natural Environment-Based Service Delivery System

Early intervention services are provided in settings identified by families as natural for their child and typical for children without disabilities. The home-based model provides easy access to services for families. Because of the nature of our State, many families find it difficult to impossible, to travel to center-based programs to receive any type of service. Travel time (or distance) is often great, public transportation is frequently nonexistent or inaccessible, inclement weather makes driving dangerous for much of the year, and/or the child's condition (i.e., health complications) may make the need for travel both difficult and undesirable.

Providing services in natural environments allows support and education of the child to occur in the larger context of family and community. Parents, as well as other family members, friends and caregivers, learn strategies for teaching the child in the natural surroundings of home and community, and within the normal routine and culture of the family, enhancing child/family interaction, and child/family/community interaction. Montana's services are designed to help family members become independent in raising their children and be successful in future educational and other

programs. Montana's goal has always been to assist parents and families to become the primary change agents for their children within the contexts of family, neighborhood and community.

Early Intervention Services

Early intervention services are designed to maximize family competency and independence. Parents are the key partners in their child's service program. Parents are given the opportunity to develop their own service outcomes and strategies; prioritize the outcomes; evaluate the acceptability of services and supports to reach their goals; and evaluate the significance of outcomes to their broader family goals. Montana's early intervention system recognizes and respects the variety of "family roles" which families may choose to play in addressing early intervention services for themselves and their children. Early intervention services are the cornerstone of Montana's program and the service delivery network and services are designed to meet the diverse individual needs of families:

- (1) child- and family-focused education;
- (2) family support;
- (3) service coordination;
- (4) transitions; and
- (5) information and referral.

Early intervention services include both child- and family-focused instruction. Child-focused instruction includes development and monitoring of learning programs the family may implement with their child in the natural settings of their home and community and within the normal context of their daily routine. This may include direct services provided to the child by a qualified early intervention service provider or through consultation with a qualified early intervention service provider. Family-focused instruction includes assisting family members to learn skills they must possess to become the primary change agent and an effective advocate for their child. This includes coaching provided to family members by the Family Support Specialist/Service Coordinator to teach family members and other caregivers appropriate strategies to improve the child's development. Family support may include services and resources to assist the family to develop in areas beneficial to the child and the family. Several of these services include providing and teaching the family how to obtain:

- equipment;
- evaluations and therapies;
- equipment from loan libraries;
- social and emotional support;
- general education information;
- information regarding available community and Statewide resources; and
- making referrals to appropriate agencies.

Service Coordination assists the family in obtaining quality services across Montana's service delivery systems and facilitates communication and collaboration between practitioners and/or agencies providing services to the family. The Family Support

Specialist/Service Coordinator assumes an active role as the single point of contact for the family as he/she supports the family in accessing services and builds the family's capacity to access services and supports long after the child exits Part C.

Transition information and referral includes informing families regarding the early intervention and early childhood program services (including Part B preschool services), services through other community and State agencies, and assisting families in obtaining these services.

Individual Family Service Plan

The Individual Family Services Plan (IFSP) is the foundation for the family's involvement with early intervention services. It identifies the services the child should receive and what results the family and the IFSP team hope to achieve for the child as a result of the services. The IFSP reflects the child's present level of functioning and needs. The plan centers on what the family needs to best support the child's development including the family's priorities for the child; the family's concerns; and the family's resources. The IFSP builds on the individual strengths of each family member thus leading to a personalized plan for early intervention services and supports.

The family members provide written consent before the IFSP is implemented. If the family believes a certain service is not right for the child, the family may decline it at any time. Declining a service does not diminish the opportunity for the child to receive other services.

The IFSP team must include*:

- *Parent(s) or guardian(s);
- Other family members, if requested by the family;
- An advocate from outside the family, if requested by the family;
- *Family Support Specialist/Service Coordinator;
- *Professionals directly involved in evaluations or assessments of the child's needs;
- Early intervention service(s) provider(s) for the child or family if identified.

Dependent upon the child's needs, the IFSP team might include specialists such as a: medical practitioner, therapist, child development specialist, or social worker.

Due to factors such as time and distance in Montana, it is not always possible to have all qualified professionals who provide services and/or complete evaluations attend each IFSP meeting in person. All individuals involved with the family can participate by other methods (e.g., electronic communications) and/or have previously discussed and supplied the results of evaluations and/or status of the services provided with both the family and Family Support Specialist/Service Coordinator. Therefore, their actual presence at the meeting is not always essential.

Under these circumstances, the IFSP is put together by integrating the evaluation and assessment information provided by the professional disciplines involved with the

priority outcomes identified by the family and IFSP team. Although the above situation may occur more frequently in more remote areas of Montana, many IFSP meetings are conducted with full participation from all professionals who conduct assessments and provide direct services to infants and toddlers.

Role of the Family Support Specialist/Service Coordinator

The Family Support Specialist/Service Coordinator is the main point of contact for the family and the IFSP Team. He/she gathers family information, performs child evaluations and assessments, and acts as both an advocate and service coordinator for the child and family. He/she administers developmental and adaptive behavior assessments, integrates assessment results, conducts behavioral evaluations, and participates in program planning as a member of the IFSP team. He/she provides family education and support services: family training, special instruction, and home visits. The Family Support Specialist uses coaching and family guided routines to successfully interact and provide active support and education to families.

One of the inherent strengths of Montana's Part C Family Support Specialists/Service Coordinators is their varied backgrounds including diverse cultural backgrounds and mixtures of individual skills and knowledge. From teachers to social workers, this assortment of professional training and expertise allows each EIS agency to maximize the knowledge and skills of all Family Support Specialists/Service Coordinators on staff. To retain Comprehensive Certification, Family Support Specialists/Service Coordinators receive ongoing training and continuing education through the EIS agency for whom they work as well as the vast range of professional development opportunities available both State- and nation-wide.

Summary

The family-focused and routines-based service delivery model described is designed to meet the unique circumstances found within Montana. It is a needs-driven system, dynamic and responsive to the variables which shape the lives of families in Montana.

- (b) Early intervention services meet the requirements for Part C (Subpart A - §303.13). Early intervention services mean developmental services that:
- (1) Are provided under public supervision;
 - (2) Are selected in collaboration with the parents;
 - (3) Are provided at no cost, except, subject to Subpart F 5 (§303.520) and Subpart F 5 (§303.521), where Federal or State law provides for a system of payments by families;
 - (4) Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP Team, in any one or more of the following areas:
 - Physical development;
 - Cognitive development;
 - Communication development;
 - Social or emotional development; or

- Adaptive development.
- (5) Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the Act;
- (6) Include services identified under Subpart A - §303.13 (b) Types of early intervention services and/or Subpart A - §303.13 (d) other services meeting appropriate criteria/requirements;
- (7) Are provided by qualified personnel (as that term is defined in Subpart A - §303.31), including the types of personnel listed in Subpart A - §303.13 (c) Qualified Personnel;
- (8) To the maximum extent appropriate, are provided in natural environments, as defined in Subpart A - §303.26 and consistent with Subpart B 17 (§303.126) and Subpart D 7.5 through D 7.15 (§303.344(d)); and
- (9) Are provided in conformity with an IFSP adopted in accordance with section 636 of the Act and Subpart A - §303.20.

C 4.2 Assurances concerning Montana's policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under Subpart F of this part.

Montana's ECFSD established policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under Subpart F of Part C, including:

- (a) Policies or procedures adopted by the State as its system of payments that meet the requirements in Subpart F 3 (§303.510), Subpart F 5 (§303.520) and Subpart F 6 (§303.521 - regarding the use of public insurance or benefits, private insurance, or family costs); and
- (b) Methods used by the State to implement the requirements in Subpart F 4 (§303.511(b)(2) and (b)(3)).

[See Subpart F 4]

C 4.3 Montana's rigorous definition of developmental delay (§303.10 and §303.111)

Montana's rigorous definition is in Subpart B 5.2, Montana's definition of developmental delay (§303.111).

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 (Authority: 20 U.S.C. 1432(3), 1432(4)(B), 1432(4)(C), 1435(a)(1), 1435(a)(10)(B), 1437(a)(3), 1440)

C 5 "At-risk" infants and toddlers in Montana (§303.204)

Children from birth through age two, inclusive, who are at risk for developmental delays are not included in Montana's definition of developmental delay and are not eligible to participate in Montana's Part C early intervention program. The children may be eligible for early intervention services through other State discretionary programs. Every effort is made to assure the children are tracked, served through appropriate programs, and referred to Part C should the need arise.

[See Subpart B 5.2 (d)]

C 6 Description of use of Part C funds (§303.205)

C 6.1 General.

Montana's Part C application includes a description of the uses for funds under this

part for the fiscal year or years covered by the application. The description is presented separately for the lead agency and the Council and includes the information required in paragraphs Subpart C 6. 2 through C 6.5 of this section.

C 6.2 State administration funds including administrative positions

Montana's Department of Health and Human Services, ECFSD, Part C application includes the total:

- (a) Amount of funds retained by the ECFSD for administration purposes, including the amount in §303.205 (b) (1) and (2); and
- (b) Number of full-time equivalent administrative positions to be used to implement Part C of the Act, and the total amount of salaries (including benefits) for those positions (§303.205 (b) (2)).

C 6.3 Maintenance and implementation activities

Montana's Part C application includes a description of the nature and scope of each major activity to be carried out under this part, consistent with Subpart F 2 (§303.501), and the approximate amount of funds to be spent for each activity.

C 6.4 Direct services

Montana's Part C application includes descriptions of direct services the State expects to provide to infants and toddlers with disabilities and their families with funds under this part, consistent with Subpart F 2 (§303.501), and the approximate amount of funds under this part to be used for the provision of each direct service.

C 6.5 Activities by other public agencies

Other public agencies do not receive funds under Part C. If, in the future, other public agencies are to receive funds under Part C, Montana's application will include:

- The name of each agency expected to receive funds;
- The approximate amount of funds each agency will receive; and
- A summary of the purposes for which the funds will be used.

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(Authority: 20 U.S.C. 1435(a)(10)(B), 1435(a)(10)(F), 1437(a)(3), 1437(a)(5))

C 7 Referral policies for specific children (§303.206)

Montana's Part C application includes the State's referral policies and procedures for early intervention services under this part of specific children under the age of three. This includes the requirement for Montana's Child Protective Services programs to make referrals of infants and toddlers who are the subject of a substantiated case of child abuse or neglect; or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure as described in Subpart D 5.2 (§303.303(b)).

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

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

C 8 Availability of resources (§303.207)

Each of Montana's five legislatively established geographic planning and service regions currently has at least one EIS agency responsible for the provision of Part C early intervention services. To ensure an equitable distribution of resources, a request for proposal is issued for each region every three years (which may be extended at the discretion of ECFSD) and one or more providers are selected to deliver Part C services in a specific region or subpart of a region. The actual level of

services available in each region is based on the number of eligible children identified in each region, their service needs, Census Bureau data on the total number of infants and toddlers for each region and subpart, and total amount of funds available for services.

Currently, ECFSD contracts with five regional EIS agencies to deliver Part C services to Montana's eligible infants and toddlers across the entire State, including the most remote regions of the State and across all Indian reservations in Montana. The contracts designate child count data and general population trends for infants and toddlers and the total amount of funds available for Part C services Statewide. Actual reimbursement is for allowable costs up to a maximum dollar amount specified in each EIS agency's contract. The contract also includes all Part C requirements and performance levels which must be attained.

C 9 Public participation policies and procedures (§303.208)

C 9.1 Application

At least 60 days prior to being submitted to the Department, Montana's Part C application for funds (including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application) is published by the ECFSD in a manner ensuring circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during the period including notice of the availability and how to access a copy of Montana's Part C Application to OSEP during that period.

Multiple methods are used by the ECFSD to publish the notice including websites for ECFSD, Montana's Office of Public Instruction, Montana's Parent Training and Information Center, Montana Council on Developmental Disabilities; electronic communications within the Department of Health and Human Services and EIS agencies; direct communications with advisory councils addressing issues of young children, families and disabilities (including the Family Support Services Advisory Council (FSSAC), Montana's ICC), and direct communications to Part C families through notices from their EIS agency. Persons interested in obtaining a copy of Montana's application may request a copy by mail, email or telephone from the Part C Coordinator at ECFSD. A copy of the application will be available on the ECFSD, Montana Milestones website. Public hearings will be held via virtual means and recordings of the hearings available on the ECFSD, Montana Milestones website.

C 9.2 State Policies and Procedures

Montana's ECFSD established policies and procedures to ensure, before adopting any new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations, the ECFSD will:

- (a) Hold public hearings on the new policy or procedure (including any revision to an existing policy or procedure);
- (b) Provide notice of the hearings held in accordance with paragraph (a) of this section at least 30 days before the hearings are conducted to enable public participation; and
- (c) Provide an opportunity for the public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the

Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations. The ECFSD will review all comments to determine what, if any, changes need to be made to the proposed policy and procedure revision.

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

(Authority: 20 U.S.C. 1231d, 1221e-3, 1437(a)(8))

C 10 Transition to preschool and other programs (§303.209)

C 10.1 Transition policies and procedures

Montana established policies and procedures to ensure a smooth transition for infants and toddlers and their families. These policies and procedures include transition from Part C to Part B preschool services and were developed through a task force of personnel from ECFSD, EIS providers, Montana's Office of Public Instruction, and technical assistance providers. The transition policies and procedures include:

(a) Montana's transition policies and procedures ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families receiving early intervention services under this part to:

- Preschool or other appropriate services (for toddlers with disabilities); or
- Exiting the Part C program for infants and toddlers with disabilities.

(b) The transition policies and procedures outline how the State will meet each of the requirements in Subpart C.10.2 through C 10.6 of this section.

(c) Transition interagency agreement.

(1) Montana's ECFSD (Part C lead agency) and Montana's Office of Public Instruction (OPI) established an interagency agreement concerning transition and established transition practices between Montana's EIS agencies and LEAs.

(2) The transition interagency agreement describes how the ECFSD and OPI will meet the requirements of Subpart C 10.2 through C 10.6 of this section (including any policies adopted by the lead agency under §303.401(d) and (e)) – Subpart E 2.1 (d), and 34 CFR 300.101(b), 300.124, 300.321(f), and 300.323(b).

(d) Montana's policy under §303.401(d) and (e) applies to transition practices and can be found in Subpart E 2.1 (d).

C 10.2 Notification to the SEA and appropriate LEA

(a) Montana's ECFSD ensures:

(1) Subject to Subpart C 10.2 (b) of this section, not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the EIS agency notifies the SEA and the LEA, for the area in which the toddler resides, the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law;

(2) Subject to Subpart C 10.2 (b) of this section, if the EIS agency determines the toddler is eligible for early intervention services under Part C of the Act more than 45 but less than 90 days before that toddler's third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the EIS agency, as soon as possible after determining the child's eligibility, notifies the SEA and the LEA, for the area in which the toddler with a disability resides, the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State policy; or

(3) Subject to Subpart C 10.2 (b) of this section, if a toddler is referred to the EIS agency fewer than 45 days before that toddler's third birthday and the toddler may be eligible for preschool services under Part B of the Act, the EIS agency, with parental consent required under Subpart E 2, 14 (§303.414), refers the toddler to the SEA and the LEA, for the area in which the toddler resides. However, the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

(4) Subject to Subpart C 10.2 (b) of this section, the EIS agency will provide two notifications of potentially eligible children per year:

- The first preliminary notification will be for children who will turn three years old in September through the following August; and
- The second preliminary notification who will turn three years old in February through the following January.

It is acceptable some children will be listed on two notifications during a 12-month time period. This practice is established and proven to be effective in increasing the efficiency of a smooth transition between EIS agencies and SEA/LEA services. It provides the SEA/LEA with information aiding them with planning for preschool special education program needs.

(b) Montana's ECFSD ensures the notifications required under Subpart 10.2 (a) (1) through (4) of this section are consistent with any policy the State has adopted, under Subpart E 2.1 (d), E 2.1 (e) (§303.401(e)) – permitting a parent to object to disclosure of personally identifiable information, and the tenets of Parental Consent and Notice are followed (Subpart E 3).

C 10.3 Conference to discuss future services and transition

Montana's ECFSD ensures:

(a) If a toddler with a disability may be eligible for preschool services under Part B of the Act, the EIS agency, with the approval of the family of the toddler (Subpart E 3), will convene a conference among the EIS agency, the family, and the LEA not fewer than 90 days, and, at the discretion of all parties, not more than 9 months, before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act; and

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

C 10.4 Transition Plan

Montana's ECFSD ensures a Transition Plan is in place for all toddlers with disabilities.

(a) Preparation of a Transition Plan:

- (1) Includes a review of program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year; and
- (2) Each family of a toddler with a disability who is served under this part is included in the development of the Transition Plan required under this section and Subpart D 7.11, D 7.12 (§303.344(h));

- (b) A Transition Plan is developed and included in the IFSP not fewer than 90 days--and, at the discretion of all parties, not more than 9 months--before the toddler's third birthday. The EIS agency may include preliminary transition planning in the child's IFSP in place at the time the child turns two years of age which prepares the child and family for the transition process and requirements; and
- (c) The Transition Plan in the IFSP contains, consistent with Subpart D 7.11, D 7.12 (§303.344(h)), as appropriate:
- (1) Steps for the toddler with a disability and his or her family to exit from the Part C program including confirmation the Transition Notification with Child Find information is transmitted to the (LEA) or other relevant agency has occurred; and
 - (2) Specific identification of any transition services the IFSP Team identifies as necessary by the toddler and his or her family.

C 10.5 Transition conference and meeting to develop Transition Plan

Any conference conducted under Subpart C 10.4 of this section or meeting to develop the Transition Plan under paragraph Subpart C 10.5 of this section (which conference and meeting may be combined into one meeting) must meet the requirements in §303.342(d) and (e) - §303.343(a) and parental consent and notice.

[See Subpart D 7.4; Subpart D 7.3 (f); Subpart D 7.3; Subpart E3]

C 10.6 Applicability of transition requirements in relationship to §303.211

Montana did not exercise the option to continue services to children beyond the age of three years.

C 11 Coordination with Head Start and Early Head Start, early education, and child care programs (§303.210).

C 11.1 Description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, *et seq.*, as amended), early education and child care programs, and services under this part.

Montana's ECFSD promotes collaboration with Head Start, Early Head Start, early education and child care programs through multiple ways including representatives from these programs are members of the Family Support Services Advisory Council (ICC) and Montana's Part C Coordinator is a member of Montana's State Advisory Council on Early Childhood Education and Care. Collaborations, outcomes of shared policy development, joint planning about and provision of training, addressing common early childhood outcomes, and information dissemination are components of collaboration. At the regional level, EIS agency personnel collaborate with local/regional programs for Head Start, Early Head Start, early education and child care programs.

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C 11.2 The ECFSD Part C Coordinator participates on the Best Beginnings Council, (consistent with section 642B (b)(1)(C)(viii) of the Head Start Act), which is Montana's State Advisory Council on Early Childhood Education and Care established under the Head Start Act.

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

C 12 State option to make services under this part available to children ages three and older (§303.211).

Montana did not exercise the option to continue Part C services to children beyond

the age of three years.

C 13 Additional information and assurances (§303.212)

C 13.1 Compliance with the General Education Provisions Act (GEPA - section 427(b)) to ensure equitable access to, and equitable participation in, the Part C statewide system.

Montana's ECFSD addresses concerns regarding equity in service delivery and the provisions of the GEPA requirement 427 with multiple and various strategies across the State. (Appendix W of Montana's previous approved part C Applications contains detailed information on providers' compliance with this statute, including information describing how the State's five EIS agencies routinely address barriers that may impede equitable access to or participation in the Part C program. Barriers addressed include gender, race, national origin, color, disability, and age.) Statewide, ECFSD sponsored or supported the following events, activities, or policies to address the GEPA statute regarding barriers to access and participation:

- (a) ECFSD makes available Spanish translations of Part C public awareness, IFSP, and procedural safeguards information;
- (b) ECFSD developed and supported the specialized Family Support Specialist Assistant Certification (See Subpart B 10.2) to assist EIS agencies in hiring paraprofessionals whose personal cultural, racial, gender, age, race, and/or disability experience enable them to enhance access to and participation in services across diverse populations;
- (c) ECFSD developed and supported fiscal policies and procedures which allow families living in the most rural/remote regions of the State to access needed early intervention services despite their distance from such services;
- (d) ECFSD supports training and dissemination of resources on the specific needs of siblings of children with disabilities which is available statewide;
- (e) ECFSD supports trainings and dissemination of information supporting the strengths and assets of families of children with disabilities;
- (f) ECFSD supports trainings and dissemination of information concerning cultural diversity designed to create a better understanding of issues related to gender, race, national origin, color, disability, and age in the provision of services and working with people from different backgrounds;
- (g) ECFSD events, meetings, conferences, and other activities are provided in accessible locations and promote the participation of people with disabilities; and
- (h) Montana State statute 49-2-308 Montana Code Annotated, the 1972 Montana State Constitution, Article II, Section (4), and Administrative Rules of Montana 46.2.302 (1) explicitly forbid discrimination in service eligibility, provision, and access. Contractual agreements with Part C providers require compliance with State statute.

C 13.2 Other information and assurances as the Secretary may reasonably require.

Montana's ECFSD will provide other information and assurances as the Secretary may find necessary and reasonable.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1228a (b), 1437(a) (11))

C 14 Assurances (§303.220 - (§303.227)

Montana's ECFSD provides assurances satisfactory to the Secretary that the State

has met the requirements in Subpart C 14.1 through C 14.7 (§303.221 through §303.227).

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b))

C 14.1 Expenditure of funds (§303.221)

Montana's ECFSD ensures Federal funds made available to the State under section 643 of the Act will be expended in accordance with the provisions of Part C, including Subpart F 1, F2 (§303.500 and §303.501).

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(Authority: 20 U.S.C. 1437(b)(1))

C 14.2 Payor of last resort (§303.222)

Montana's ECFSD ensures it will comply with the requirements in Subpart F 3 (§303.510) and Subpart F 4 (§303.511) in Subpart F of this part.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b)(2))

C 14.3 Control of funds and property (§303.223)

Montana's ECFSD ensures:

- (a) The control of funds provided under Part C, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and
- (b) A public agency will administer the funds and property.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b)(3))

C 14.4 Reports and records (§303.224)

Montana's ECFSD ensures it will:

- (a) Make reports in the form and containing the information the Secretary may require; and
- (b) Keep records and afford access to those records as the Secretary may find necessary to ensure compliance with the requirements of this part, the correctness and verification of reports, and the proper disbursement of funds provided under this part.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b)(4))

C 14.5 Prohibition against supplanting; indirect costs (§303.225)

(a) Montana's ECFSD ensures the Federal funds made available under section 643 of the Act to the State:

- (1) Will not be co-mingled with State funds; and
- (2) Will be used 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.

(b) To meet the requirement in paragraph (a) 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 this part 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:

- (1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and
- (2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.
- (c) Requirement regarding indirect costs.
- (1) Except as provided in Subpart C 14.5 (c)(2) of this section, a lead agency under this part may not charge indirect costs to its Part C grant.
- (2) If approved by the lead agency's Federal agency or by the Secretary, the lead agency must charge indirect costs through either:
- A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or
 - A cost allocation plan that meets the non-supplanting requirements in paragraph (b) of this section and 34 CFR parts 76 of EDGAR.
- (3) In charging indirect costs under paragraph (c)(2) of this section, the lead agency 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.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b)(5))

C 14.6 Fiscal control (§303.226)

Montana's ECFSD ensures fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this part.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1437(b)(6))

C 14.7 Traditionally underserved groups (§303.227)

Montana's ECFSD ensures policies and practices have been adopted to ensure:

- (a) That traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of this part; and
- (b) These families have access to culturally competent services within their local geographical areas.

(Approved by Office of Management and Budget under control number 1820-0550)
(Authority: 20 U.S.C. 1231d, 1437(b)(7))

Subpart D – Child Find, Evaluations and Assessments, and Individualized Family Service Plan

D 1 General. (§303.300)
Montana's statewide comprehensive, coordinated, multidisciplinary interagency system to provide early intervention services for infants and toddlers with disabilities and their families referenced in Subpart D §303.100 includes the following components.
D 1 1 Pre-referral policies and procedures that include:
(a) A public awareness program as described in §303.301; and (b) A comprehensive Child Find system as described in §303.302.
D 1.2 Referral policies and procedures as described in §303.303.
D 1.3 Post-referral policies and procedures ensure compliance with the timeline requirements in Subpart D §303.310 and include:
(a) Screening, (Not applicable for Montana), as described in §303.320; (b) Evaluations and assessments as described in §303.321 and §303.322; and (c) Development, review, and implementation of IFSPs as described in (§§303.340 through §303.346).
Pre-referral procedures for public awareness and child find system
D 2 Public Awareness Program
The ECFSD assures it has developed and disseminated to primary referral sources and, when appropriate, parents (§303.303(c)), a public awareness program focusing on early identification of infants and toddlers with disabilities and other learning or developmental risk factors. This includes the preparation and dissemination 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 such sources disseminate information to parents of premature infants or infants with other physical risk factors associated with learning or developmental complications. Materials for parents and professionals on the availability of early intervention Part C services include information describing:
(a) The State's early intervention program (§303.301(b) (1)); (b) The Child Find system (§303.301(b) (1) (2)), including: (1) The purpose and scope of the system; (2) How to make referrals for evaluations and early intervention services; and (3) How to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services. (c) The central directory of services ((§303.301(b))); and (d) The requirement for the EIS agencies to inform parents of toddlers with disabilities of the availability of public preschool special education services under 619 of the Act not fewer than 90 days prior to the toddler's third birthday ((§303.301(c)).
D 3 Description of Montana's Public Awareness Program (§303.301)
D 3.1 Montana engages in a variety of ongoing public awareness activities including:
(a) Distribution of public awareness information through a variety of methods (e.g., pamphlets, posters, internet links) by EIS agencies in physicians' offices; hospitals; public health departments; WIC offices; other agencies involved with young children

with disabilities and risk conditions associated with disabilities ((§303.302 (c)), (§303.303 (c)); and public places frequented by parents of infants and toddlers and other family members (e.g., libraries, grocery stores), including:

- Program authorized under Part B of the Act;
- 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));
- 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));
- Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 *et seq.*);
- Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 *et seq.*);
- Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
- 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));
- Child care and early learning programs in the State;
- Programs providing services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*);
- Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
- Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa *et seq.*).

(b) Ongoing communications with organizations throughout the State with a direct interest in Part C, including public agencies at the State and local level, private providers, professional associations, parent groups and other advocate associations;

(c) News releases and public service announcements, providing broad coverage to the public (including parents, family members and individuals with disabilities); and

(d) Continuing personal contacts, including presentations and workshops at State and local meetings, medical educational forums, public hearings and other special events.

D 3.2 The ECFSD, in conjunction with the Family Support Services Advisory Council (FSSAC - Montana's ICC), and stakeholder groups such as the Montana Council on Developmental Disabilities, Healthy Mothers Healthy Babies, Best Beginnings Advisory Council, will continue a multi-media approach to publicizing the availability of services for young children and families, including Part C early intervention services.

D 4 Comprehensive Child Find system (§303.302)

D 4.1 Montana's components for a Comprehensive Child Find system are consistent with the provisions found in §303.302

(a) The coordination of the Part C Child Find system to identify infants and toddlers with disabilities, who may be eligible for Part C services, is the responsibility of the ECFSD and EIS agencies.

- (b) The Part C Child Find system is implemented in cooperation with, and is consistent with, OPI's Part B of IDEA child find program in accordance with §303.302 (a) (1). The OPI child find program is mandated by Montana Code Annotated, 1987 (20-7-414) and Administrative Rules of Montana (see Sections 10.16.1201, 10.16.901, 10.16.103, ARM). The State's Part C Child Find system includes a system for making referrals to EIS provider agencies (including timelines) and provides for participation by primary referral sources. Child find includes all children, including infants and toddlers with disabilities who are receiving services from or attending private programs or schools.
- (c) The Child Find system includes a system for making referrals to the lead agency and/or EIS providers that includes:
- (1) Timelines;
 - (2) Provides for the participation of primary referral sources ((Subpart D 5.2 (c) - §303.302(c)) including coordination of child find activities;
- (d) The Child Find system is based on standards for appropriately identifying infants and toddlers with disabilities for early intervention services under Part C to reduce the need for future services; and
- (e) The Child Find system meets the standards for scope of child find (Subpart D 4.2 - §303.302 (b) and coordination of child find activities (Subpart D 4.3 - §303.302 (c)).

D 4.2 Scope of child find includes the following components.

- (a) All infants and toddlers with disabilities in the State who are eligible for early intervention services under this part are identified, located, and evaluated, including:
- (1) Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based, in part, on the information provided by them to the lead agency under 303.731(e)(1));
 - (2) Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State;
 - (3) Infants and toddlers with disabilities referenced in Subpart D 5.2 (b) ((§303.303(b); and
 - (4) The Child Find system is based on effective methods developed, implemented, reviewed and revised to identify children who need early intervention services.

D 4.3 Coordination of child find activities includes the following components:

- (a) The ECFSD, with the assistance of the FSSAC (Council, as defined in Subpart A -§303.8), ensures the Child Find system under Subpart 4.3 (§303.302 (c)):
- (1) Is coordinated with other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to this part, including Indian tribes that receive payments under this part, and other Indian tribes, as appropriate; and
 - (2) Is coordinated with the efforts of:
 - Program authorized under Part B of the Act;
 - 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));

- 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));
- Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 *et seq.*);
- Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 *et seq.*);
- Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
- 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));
- Child care programs in the State;
- The programs providing services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 *et seq.*);
- Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
- Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa *et seq.*).

(b) The ECFSD, with the advice and assistance of the FSSAC (Council), takes steps to ensure:

- (1) There will not be unnecessary duplication of effort by the programs identified in D 4.3 (a)(2) of this section; and
- (2) The State will make use of the resources available through each public agency and EIS provider in the State to implement the Child Find system in an effective manner.

Referral procedures

D 5 Referral Procedures (§303.303)

D 5.1 Montana's components for a Comprehensive Child Find system are consistent with the provisions found in §303.303.

D 5.2 The ECFSD's Child Find system described in Subpart D 4 (§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, including:

- (a) Procedures for referring a child as soon as possible, but in no case more than seven days, after the child has been identified;
- (b) Procedures for requiring the referral of specific at-risk infants and toddlers (under age three) who are:
 - (1) The subject of a substantiated case of child abuse or neglect; or
 - (2) Identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
- (c) The ECFSD's definition of primary referral sources (§303.303 (c)) for Part C services includes:
 - Hospitals, including prenatal and postnatal care facilities;
 - Physicians;
 - Parents, including parents of infants and toddlers and other family members;

- Child care programs and early learning programs;
- Local education agencies and schools;
- Public health facilities;
- Other public health or social service agencies;
- Other clinics and health care providers;
- Public agencies and staff in the child welfare system, including child protective services and foster care;
- Homeless family shelters; and
- Domestic violence shelters and agencies.

D 5.3 Child Find Infant and Toddler Identification Policies and Procedures (\$303.303)

- (a) The ECFSD, with the assistance of the FSSAC, implements a Child Find system which assures infants and toddlers who may be eligible for Part C services are identified, located, and evaluated. The identification and location of infants and toddlers who may be eligible for Part C services is conducted in cooperation and coordination with other similar statewide and major child find efforts. The EIS agencies, which provide Part C services, are responsible for coordinating and cooperating with child find efforts in their regions and for evaluating infants and toddlers who have been referred for Part C services in accordance with Subpart D 6. The Child Find system is implemented in accordance to the Child Find Notice requirements (Subpart E 2.4) in the Confidentiality section of Procedural Safeguards. The ECFSD is responsible for EIS agencies child find efforts through monitoring contractual agreements with EIS agencies (see Subpart B 12) and State and local interagency agreements (see Subpart B 11).
- (b) The ECFSD implements a data collection system designed to determine which infants and toddlers are receiving Part C services and to determine the extent to which primary referral sources disseminate information on the availability of Part C early intervention services.
- (c) The foundation of the Child Find system is the public awareness program regarding Part C services and referral procedures, especially for primary referral sources and the interagency agreements about coordination and cooperation with statewide and major child find efforts. The ECFSD promotes and monitors statewide child find efforts. The EIS agencies coordinate and cooperate with regional child find efforts and conduct eligibility evaluations of infants and toddlers referred for Part C services.
- (1) The ECFSD and FSSAC's statewide public awareness program provides information to the public and primary referral sources about Part C services, referral procedures for Part C services and access procedures for Part C service eligibility evaluation. The Part C public awareness program is developed in cooperation with OPI's public awareness program for Part B preschool services.
 - (2) The five regional EIS agencies conduct public awareness programs regarding:
 - Part C services,
 - Referral procedures for services in their region,
 - Access procedures for eligibility evaluation and determination for services (services include other early intervention services in addition to Part C services).

- (3) In addition to Montana's Office of Public Instruction (SEA for Part B IDEA), agencies which may have a part in serving children age birth through two with disabilities in the Department of Public Health and Human Services, include:
- Division of Child and Family Services (including Child Care, Foster Care, Child Protective Services, Services to Native American Children and Families (Indian Child Welfare Act) programs,
 - Developmental Services Division (Developmental Disabilities Program and Children's Mental Health Program),
 - Public Health and Safety (Children's Special Health Services, Newborn Hearing Screening, Newborn Screening), and
 - Healthy Montana Kids (Medicaid) program.
 - With the assistance of the FSSAC, the ECFSD develops and sustains interagency agreements which include arrangements regarding cooperation and coordination of child find efforts, including referral procedures for Part C services (Subpart D 5).
- (4) Referrals for Part C services may emanate from any public agency (including from statewide and major child find efforts) or primary referral sources.
- (5) Public agencies, primary referral sources, and families may make referrals for infants and toddlers who may be eligible for Part C services through any one of the following methods:
- Referral to the ECFSD. ECFSD will direct primary referral sources to the appropriate EIS agency considering where the referred child resides. In addition, the ECFSD will assist coordination of referrals in unusual situations (e.g., the family currently resides in one region but is moving to another region in the State).
 - Referral to a regional EIS agency. If the referral relates to a child who lives in another region, the EIS agency will refer the primary referral source to the appropriate EIS agency in the appropriate region. If the referral may involve more than one EIS agency, in addition to informing the primary referral source regarding the EIS agency, referral will be made to the ECFSD to assist in coordination, if necessary.
- (6) No matter where the child find referral may go to and, if desired by the primary referral source, the primary referral source will be assisted directly in making the referral to the appropriate contracted EIS agency. All referrals must be made within and no later than seven calendar days of the identification of the child.
- (7) The following information is collected from the primary referral source in order to facilitate the referral process:
- name and address and/or telephone (cell or land line) of parent or guardian
 - the name and age of the referred child;
 - number of the primary referral source and their relationship to the referred child/family (if the primary referral source is not the referred child's parent);
 - confirmation the parent is aware of and has not refused the referral (if the primary referral source is not the referred child's parent);
 - and the primary concerns regarding the child's development which serve as the basis for the referral by the parents and/or the primary referral source.
- In cases where the parent refused a referral for Part C services, the primary

referral source will maintain written documentation the parent requested a referral not be made at this time, offer an explanation of the services and the consequences of not accessing the services available, and if the referral was made, inform the family a referral does not commit the family to participation in Part C, and initiate follow up contact for families who initially refuse referral.

(8) The EIS agency in the region where the referred child resides, unless otherwise arranged with the ECFSD, will be responsible for the Part C service eligibility evaluation in accordance with Subpart D 6. The EIS agency will complete the following steps as appropriate:

- Once an EIS agency receives a referral, an Intake Coordinator or a Family Support Specialist/Service Coordinator is assigned as soon as possible (not longer than two days after the referral was made to the EIS agency). This single individual within the EIS agency assists the referred child and his/her family through the Part C service eligibility evaluation process.
- If the primary referral source was not the parent, the EIS agency will contact the referred child's parents as soon as possible after the referral is made, especially in situations which require immediate attention (e.g., infant with immediate needs) but not longer than seven days after the referral was made to the EIS agency. In usual referral situations, contact with the family must be initiated by the EIS agency no later than two working days following the receipt of the referral.
- The EIS agency staff will inform the parents of the benefits of early intervention services for their child and family; provide information about eligibility; evaluation; program planning; and appropriate procedural safeguards (e.g., system of payments, prior written notice, and dispute resolution).
- If there is an immediate need for Part C services and, according to the initial information gathered from the primary referral source, the referred infant or toddler appears to be eligible for Part C services (e.g., established condition), Part C services can be immediately provided in accordance with Subpart D 6 and D 7.15.
- The Part C service eligibility evaluation process is designed not to duplicate evaluation procedures completed during the child find efforts of other agencies within three previous months of the referral. The EIS agency will use previously completed and appropriate evaluation information (see D 6.2 (c), D 6.4 (a) (7)).
- The initial evaluation for Part C eligibility must be completed as soon as possible (within 30 days after referral to the EIS agency is the expected timeline) and within the 45-day timeline to have sufficient time to complete assessments needed for development of the IFSP and the development of the initial IFSP unless family circumstances make it impossible to meet the timeline.
- The Part C service initial eligibility and ongoing evaluation process will be conducted in accordance to Subpart D 6.

- For infants and toddlers and their families who are eligible through Type I Established Condition for Part C services, activities will be focused on assessment related to development of their initial IFSP (See Subpart D 7).
- If not already done so, as soon as possible (within two days is the expected timeline) after a child has been determined eligible for services, the child and family should be assigned a Family Support Specialist/Service Coordinator and he/she should initiate contact with the family/child as soon as possible after being assigned (within seven days is the expected timeline) unless family circumstances make it impossible to meet the timeline.

D 5.4 The ECFSD data collection system is designed to summarize child find data and to determine the extent information about Part C services is disseminated.

- (a) The ECFSD data collection system is designed to summarize child find data from each EIS agency in order to determine, on an annual basis, the number of infants and toddlers who are:
- eligible for and receiving Part C services;
 - not eligible for Part C services and not receiving any other ECFSD supported services; and
 - eligible for, but parents decline Part C services.

Child find/eligibility data also may include a breakdown of the numbers of children qualifying under each category of eligibility: Type I or Type II. Additionally, the data collection system allows for the collection of data required by OSEP, i.e., exit data, data regarding race/ethnicity, data regarding personnel providing services, etc.

- (1) Through the normal course of services related to the Child Find system and Part C service eligibility evaluation, each EIS agency will collect child find data according to the three classifications in Subpart 5.4(a). This information will be summarized on an annual basis and reported to the ECFSD.
 - (2) The ECFSD will collect, on an annual basis, child find data from each EIS agency according to the classifications in Subpart 5.4(a). The ECFSD will review and summarize the child find data.
 - (3) The ECFSD will develop an annual report regarding which infants and toddlers are receiving their needed early intervention services and which infants and toddlers are not receiving those services according to the classifications in Subpart 5.4(a).
- (b) The ECFSD data collection system is designed to determine the extent to which primary referral sources disseminate information about the availability of Part C services.
- (1) The EIS agencies monitor a representative sample of primary referral sources from across the five geographic regions in Montana to ascertain the degree to which the representative sample of primary referral sources has knowledge of and disseminates information about the availability of Part C services.
 - (2) The EIS agencies will monitor a representative sample of families referred for Part C services to determine who informed them about the availability of Part C services.
 - (3) The EIS agencies will report the findings of the monitoring of primary referral

sources' knowledge and dissemination of information about the availability of Part C services to better target primary referral sources that need more information.

D 5.5 Child Find Infant and Toddler Identification Coordination (§303.321[c])

(a) The ECFSD, with the assistance of the FSSAC, will coordinate, in accordance to Subpart D 4, infant and toddler child find activities for Part C services with State agencies which provide similar statewide and major child find efforts. The coordination and cooperation with statewide and major child find efforts are documented through interagency agreements with State agencies. In addition to coordinating the Child Find system with State agencies, ECFSD and EIS agencies will coordinate the Child Find system with organizations who provide services to and/or conduct child find activities for Native American Indian children, including tribes and tribal organizations receiving payments under Part C (§303.731) and other tribes and tribal organizations as appropriate.

- (1) The Child Find system is not designed to duplicate child find or evaluation efforts of other State agencies. The Part C service eligibility evaluation process is developed to make use of all appropriate child evaluations and not unnecessarily duplicate any evaluation process completed for a child within the previous three months before being referred for Part C services (see Subpart D 6).
- (2) The ECFSD and EIS agencies will make the most effective use of all appropriate resources available to State agencies to complete Child Find system activities in a coordinated and timely manner.

(b) The Child Find system roles and responsibilities of the various State agencies are identified. The purpose of this listing is not to alter child find services provided by the State agencies but to identify roles and interrelationships between the agencies. ECFSD will coordinate infant and toddler child find activities for Part C services through contractual relationship with EIS agencies. The EIS agencies are responsible for cooperating with regional and local child find activities and completing Part C service eligibility evaluations (Subpart D 6.2, D 6.4).

- (1) OPI is Montana's lead agency for Part B IDEA and Services for Deaf-Blind Children and Youth (Montana School for the Deaf and Blind). OPI is responsible for the statewide child find efforts for children with disabilities (birth through age 21) conducted by LEAs. OPI and LEAs assist the ECFSD and EIS agencies in locating, identifying and referring infants and toddlers who may be eligible for Part C services. ECFSD and EIS agencies cooperate with LEA child find efforts, including making referrals for children who may be eligible for Part B for preschool services. This includes informing parents about preschool programs and services under 619 of the IDEA, after the child's second birthday but not fewer than 90 days prior to the child's third birthday.
- (2) The Public Health and Safety programs (Children's Special Health Services, Newborn Hearing Screening, Newborn Screening) in the Department of Public Health and Human Services, assists the ECFSD in locating, evaluating, and referring infants and toddlers who may be eligible for Part C services. The Department is responsible for the Maternal and Child Health Block Grant allocation to Montana (Title V of the Social Security Act) and Preventive Health and Health Services Block Grant allocation to Montana. These programs assist local public health agencies (e.g., city/county and tribal health departments) in

providing public health services including child find activities. The child find activities are not statewide as not every county of Montana has a public health early screening program, but all major Montana communities have such services. The programs also promote child find activities through their links to other primary referral sources, such as physicians, nurses, hospitals, and health clinics. The Children's Special Health Services Program developed a centralized system organized to track infants and children born under targeted risk conditions which have the potential to adversely affect their growth and development. The targeted risk conditions include those biological (such as low birth weight), established (such as Down syndrome), environmental (such as teenaged parents or psychological stress in the family), and infants identified through newborn hearing screening. The general objectives for this project are to enhance child development, promote effective parenting, and ensure early intervention for followed children as needed.

Care for "at risk" children is assured through referral, primarily from hospitals, to local health departments for comprehensive home visiting by public health nurses. Through the home visits, families are provided services which include anticipatory guidance, developmental assessment, resource information, and referrals.

Intensity of home visits is determined by the infant or toddler's risk factors. The program tracks the progression of these children to and through the early intervention system until school entry. Children who may be eligible are referred to EIS agencies for Part C evaluation. Public health agencies are directed to develop memorandums of understanding with their local EIS agency to ensure program collaboration and coordination.

(3) The Division of Child and Family Services (DCFS) assists in referring infants and toddlers who may be eligible for Part C services. Although DCFS does not provide a child find service, they are responsible for providing child care, child protective services, foster care and out-of-home placement services. The child protective services programs are required to make referrals of infants and toddlers who are the subject of a substantiated case of child abuse or neglect; or identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. The DCFS is a primary referral source for any child who may be eligible for Part C services who is their responsibility and has not been referred for Part C child find. Additionally, DCFS is the State agency responsible for licensing family foster homes and child placing agencies. Through DCFS representation on the FSSAC, it is assured information regarding Part C services is passed on to the program officers responsible for foster home licensing, and, thus, to foster care stakeholders statewide.

(4) The Children's Mental Health Services program in the Developmental Services Division also assists in referring infants and toddlers who may be eligible for Part C services. This Division is responsible for providing children, including young children, who need mental health services. The Division is a primary referral source for any child or family who may be eligible for Part C services, is referred for or receiving a Division service, and has not been referred for Part C child find.

(5) The Department of Public Health and Human Services (DPHHS), which

includes the ECFSD and the Human Service Divisions mentioned above, is also responsible for coordinating major child find efforts. The DPHHS assists the ECFSD and EIS agencies in locating, identifying, and referring infants and toddlers who may be eligible for Part C services. In addition to ECFSD's Part C lead agency responsibilities; other Divisions of DPHHS are responsible for Medicaid (including Early and Periodic Screening, Diagnosis, and Treatment, Title XIX of the Social Security Act) and Social Services Block Grant services. ECFSD monitors services included in the Family Education and Support (FES) program for children over age three which includes respite care services. Any child referred to the ECFSD or an EIS agency for FES who may be eligible for Part C services, will be evaluated for eligibility for Part C services.

(6) The Montana Developmental Disabilities Planning Advisory Council (ECFSDAC), the Montana Advocacy Program (MAP), and the Montana University Affiliated Rural Institute on Disabilities (Rural Institute) are established through the Developmental Disabilities--Basic State Grant (Developmental Disabilities Assistance and Bill of Rights Act). The ECFSDAC is responsible for developing and assisting State agencies in implementing a State Plan for developmental disability services across all State agencies. The MAP is responsible for providing advocacy services to individuals with disabilities and their families. The Rural Institute is responsible for providing training, models of exemplary service, demonstration projects, technical assistance and information dissemination services in Montana. Further MonTECH, Montana's project on assistive technology and Montana's Deaf-Blind Project through the Office of Public Instruction are part of the Rural Institute. These organizations serve as primary referral sources and refer any infants and toddlers who may be eligible for Part C services.

(7) The Montana School for the Deaf and Blind (MSDB) assists in identifying and referring infants and toddlers who may be eligible for Part C services. The MSDB also provides technical assistance to EIS agencies and families regarding best practices for children with sensory impairments. The MSDB provides specialized evaluation and assessment for children with sensory impairments. MSDB consistently tracks children with sensory impairments across all service delivery systems birth through adulthood. Staff from MSDB act as liaisons for IFSP/IEP teams for children with sensory impairments. The MSDB is an integral consultative resource for families and EIS agencies serving the needs of infants and toddlers with sensory impairments. Montana's Child Find system coordinates with MSDB in identification and referral of any infant or toddler not yet referred for Part C services.

(8) Montana's Supplemental Security Income (SSI) Program under Title XVI of the Social Security Act (SSA) may also serve children who are currently receiving Part C services. Family Support Specialists/Service Coordinators work with Montana's Disability Determination Bureau(s) (DDB) to assist families through the eligibility determination process. The DDB and EIS agencies provide mutual referrals to link families with Part C and SSI services. Information on Montana's Part C services has been disseminated to Social Security Offices in the state.

(9) Montana's State Auditor's Office includes the Insurance Compliance Division.

Through the Health Insurance Compliance Officer's inclusion on the FSSAC, Part C has gained another source of primary referrals for services statewide.

(10) In addition to the above State-sponsored programs, Montana also has Head Start and Early Head Start (Head Start Act), Indian Health Service (Snyder Act of 1921 and Indian Health Care Improvement Act), and Tribal Health Service programs which provide child find activities on a local or regional basis. Montana's Child Find system is coordinated with tribes and tribal organizations receiving payments under Part C (303.180), and other tribal organizations as appropriate.

- Head Start and Early Head Start programs in Montana are in all major communities (communities with populations of 10,000 or more) and on the seven Native American Indian reservations in Montana. The four primary service components of Head Start and Early Head Start programs are child education, parent involvement, social services, and health services. Each program may conduct child find activities. All of Montana's Head Start and Early Head Start programs assist ECFSD in locating, evaluating, and referring infants and toddlers who may be eligible for Part C services.
- Indian Health Service programs are available on Native American Indian reservations in Montana and in Montana's communities with a significant Native American population. The health services consist of a variety of preventive and direct health care services, including child find activities. Indian Health Service programs assist ECFSD in locating, evaluating, and referring infants and toddlers who may be eligible for Part C services.
- Tribal Health Service programs are available on Native American Indian reservations in Montana. Depending on the Tribe's relationship with Indian Health Services, Tribal Health may take the lead in providing health care on a reservation while they may have different health care responsibilities on another reservation. The Tribal Health Service programs also serve as strong primary referral sources for Part C services.

(11) The DPHHS also administers the State's Medicaid, EPSDT and WIC programs. These State agency offices and their local counterparts are integral partners in child find efforts statewide. All local Medicaid, WIC and EPSDT offices routinely post information on the availability of Part C services and make referrals for children and families to appropriate local EIS agencies.

D 5.6 On-going Implementation of Referral Procedures (§303.321[d])

(a) The ECFSD, with the assistance of the FSSAC, is responsible for initial and ongoing implementation of the referral system and procedures with State agencies and primary referral sources. The ECFSD and FSSAC individualized the process for informing State agencies and primary referral sources regarding referral procedures related to Part C child find, evaluation, assessment, and services identified in Subpart D 2 through D 5. The ECFSD developed referral procedures which describes the steps referred to in Subpart D 2 through D 5 and serves as a common document for Part C referral across State agencies and primary referral sources.

(1) ECFSD will continue the following activities to ensure implementation of the requirements of Subpart D 5:

- All State agencies and EIS agencies have an opportunity for input to the ECFSD's Part C Application, including the policies and procedures contained in the plan.
- ECFSD's Part C Application, including policies and procedures, will be revised according to feedback gathered during the period of public response and hearings.
- Part C policies and procedures will continue to be distributed to all appropriate State agencies, EIS agencies, and primary referral sources included in Part C.
- ECFSD will conduct, support, and/or arrange for educational workshops for EIS agency personnel regarding revising and implementing internal policies and procedures in accordance to requirements of Subpart D 2 through D 5, and locally/regionally implementing policies and procedures in accordance with the requirements of Subpart D5.
- ECFSD will review service agreements with other State agencies and revise service agreements in accordance with appropriate requirements of Subpart D 2 through D 5.
- ECFSD will provide and/or coordinate ongoing technical assistance and training related to implementation of the requirements of Subpart D 5 for early intervention professionals and primary referral sources.
- ECFSD's monitoring system for Part C will ensure compliance with the requirements of Subpart 5 by the EIS agencies.

(2) Child Find and referral procedures, specifically for State agencies, will continue to be addressed through:

- The referral procedures documents distributed to the appropriate State agencies;
- The further refinement of interagency agreements; and
- Meetings with State agency personnel for discussions regarding implementing the Part C referral procedures and methods for transmitting Part C information to appropriate individuals within the State agency and/or to other agencies and professionals involved in child find activities associated with the State agency (e.g., contracted services).

(3) Child Find and referral procedures, specifically, for primary referral sources identified in Subpart D 5.2 (c) and D 5.6 (b) - (other than State agencies), will continue to be addressed through:

- Eliciting assistance from State agency personnel in transmitting information about Part C services and referral procedures to primary referral sources which are associated with State agencies (e.g., the mental health division's relationships with community mental health providers, managed care programs, and psychiatrists and psychologists);
- Implementing the Part C public awareness program which includes public service announcements via a variety of media, advertisements and articles, presentations to primary referral source groups and individuals, and pamphlets and brochures (see Subpart D2, D3). The content of public awareness materials includes information about child find, evaluation, and

- service implementation activities. The Part C public awareness program is a collaborative effort with other State agencies and DPHHS Divisions;
- Implementing public awareness and associated information and referral service as conducted by the State's Parent Training and Information Center. (see Subpart B 8);
 - Directly distribute Part C service and referral information to primary referral sources according to the most appropriate methods for each of the primary referral source groups.

(b) ECFSD's definition of primary referral sources for Part C services includes (§303.321[d][3]):

- Hospitals, including prenatal and postnatal care facilities;
- Physicians;
- Parents of infants and toddlers and other family members;
- Child care programs and early learning programs;
- Local education agencies and schools;
- Public health facilities;
- Other public health or social service agencies;
- Public agencies and staff in the child welfare system, including child protective service and foster care;
- Homeless family shelters; and
- Domestic violence shelters and agencies.

Post-referral procedures for evaluations and assessments

D 6 Post-referral procedures - timelines, evaluations and assessment

D 6.1 Post-Referral Timelines, Evaluation and Assessment Assurances (§303.310, §303.321, (§303.322)

ECFSD policies and procedures for post-referral timelines, evaluation and assessment are consistent with Subpart B3 (§303.113), Subpart D 6.3 (§303.310), Subpart D 6.4, D 6.5 (§303.321) and Subpart D 6.4 (§303.322). Montana chose not to develop a screening policy and procedures.

(a) ECFSD assures the performance of a timely (consistent with post-referral timelines noted in §303.310), comprehensive, multidisciplinary evaluation (Subpart D 6.2, D 6.3, D 6.4 and D 6.5) of each child, birth through age two, referred for evaluation, including assessment activities related to the child and child's family for eligible children in accordance with Subpart D 6.3 (§303.310), Subpart D 6.4, D 6.5 (§303.321) and Subpart D 6.4 (§303.322).

(b) ECFSD assures the adopted evaluation and assessment instruments and procedures will be nondiscriminatory in accordance with Subpart D 6.4, D 6.5 (§303.321), and follow all appropriate procedural safeguards Subpart E 3.1 – E 3.2 (§303.420 - 303.421) including:

- (1) Tests and other evaluation materials and procedures are administered in the native language of the child (for child evaluations and assessments) and parents (for family assessments), or other mode of communication, unless it is clearly not feasible to do so;
- (2) Any assessment and evaluation procedures and materials used are selected and administered so as not to be racially or culturally discriminatory;
- (3) No single procedure is used as the sole criterion for determining a child's

- eligibility under Part C when a child does not appear to have a diagnosed physical or mental condition and is suspected of having a developmental delay in one or more of the following areas of development: cognitive, physical (including vision and hearing), communication, social or emotional, or adaptive;
- (4) Evaluations and assessments are conducted by qualified personnel;
 - (5) Evaluations and assessments are completed within the post-referral timeline (45 days); and
 - (6) Parents are fully informed of procedural safeguards, including those for parent consent and notice.
- (c) ECFSD is responsible for ensuring the requirements of Subpart D 6 are implemented by all appropriate State agencies and EIS agencies. In accordance with the requirements of Subpart D 6, evaluation and assessment services are included in the contractual document with each EIS agency.
- (d) ECFSD will complete the following activities to ensure implementation of the requirements of Subpart D 6:
- (1) All State agencies and EIS agencies have opportunity for input to the ECFSD's Part C Application and revised policies and procedures.
 - (2) ECFSD's Part C Application, and policies and procedures, will be revised according to feedback gathered during the period of public response and hearings.
 - (3) Part C policies and procedures will be distributed or accessible to appropriate State agencies, EIS agencies, and professional organizations for the professional disciplines included in Part C.
 - (4) ECFSD will conduct and/or arrange for educational workshops for EIS agency personnel regarding:
 - Updating and implementing internal policies and procedures in accordance with requirements of Subpart D 6; and
 - Locally/regionally implementing policies and procedures in accordance with the requirements of Subpart D 6.
 - (5) ECFSD will revise and maintain service agreements with other State agencies in accordance to appropriate requirements of Subpart D 6 (See B 11.6, F 4.2).
 - (6) ECFSD will provide and/or coordinate technical assistance and training related to ongoing implementation of the requirements of Subpart D 6 for early intervention professionals.
 - (7) ECFSD will continue to refine the monitoring system to ensure compliance with requirements of D 6 by EIS agencies (see Subpart B 11, B 12).

D 6.2 Definitions of Evaluation and Assessment

- (a) **Evaluation** means procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility under Part C, consistent with the definition of eligibility for an infant or toddler with a disability (see Subpart A, Subpart B 5.2), including determining the status of the child in each of the developmental areas identified in Subpart B 5.2 and Subpart D 6.4 for children who are eligible under Type II criteria (see Component 1). An initial evaluation refers to the child's evaluation to determine his or her initial eligibility under Part C. Evaluation must be based on evidenced-based practices and as practical, scientifically based research, including evaluation and assessment processes found in the Division for Early Childhood. (2014), *DEC recommended practices in early intervention/early childhood*

special education 2014.

(b) **Assessment** means the individualized ongoing procedures used by appropriate qualified personnel to:

- (1) Identify the child's unique strengths and needs and the early intervention services appropriate throughout the period of the child's eligibility for Part C, and
- (2) Assessment of the child's family (family information gathering).

Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting. This process is a family-directed identification of needs, concerns, resources, and priorities relating to the development of their child for making decisions regarding program planning linked to their child's and family's IFSP.

Assessment includes and is referred to as "information gathering" when the topic of concern is family-related information. Information gathering in this context specifically refers to a process of exchanging information between family members and early intervention professionals through a variety of techniques (i.e., interviews, family checklists, eco-mapping, Routines-Based Interview and other family assessment tools and observations) designed to help families determine their primary areas of need, concern or priorities (i.e., including family-identified strengths); as well as alternative methods for addressing their needs, concerns or priorities; and family resources which may assist in addressing their needs, concerns or priorities.

Family information gathering is family-directed and conducted in accordance to prior written notice, approval and preferences. Assessment and information gathering are an ongoing, multidimensional process conducted by qualified personnel providing information regarding:

- (1) The child's unique strengths, abilities and needs (i.e., support and service needs);
- (2) The family's concerns, needs and priorities related to their child's development and their unique strengths and resources related to those concerns, needs and priorities; and
- (3) The supports and services needed to address the family's priorities addressed in Subpart D 6.5.

Assessment must be based on evidenced-based practices and as practical, scientifically based research, including evaluation and assessment processes found in the Division for Early Childhood. (2014), *DEC recommended practices in early intervention/early childhood special education 2014*. ECFSD recommends the use of functional, authentic, routines-based assessment procedures.

(c) A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child for eligibility) under Part C if records indicate the level of functioning in one or more of the developmental areas (Subpart B 5.2, Subpart D 6.4) constitutes a developmental delay or the child otherwise meets the criteria for an infant and toddler with a disability (Subpart A). If the child's eligibility is established in this way, the EIS provider must conduct assessments of the child and

family in accordance to Subpart D 6.4 and D 6.5.

(d) Qualified personnel must use **informed clinical opinion** when conducting an evaluation and assessment of the child. Informed clinical opinion makes use of qualitative and quantitative information to assist in forming a determination regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention. The knowledge and skill of the early intervention multidisciplinary evaluation team, including information obtained from the parents, constitutes the basic foundation for the process of becoming "informed" about a child's developmental status within a socially valid context. In order to reach an informed clinical opinion about the development of a particular infant or toddler, multiple procedures and sources of information must be used, including the following:

- A review of a child's developmental history;
- Interview(s) with parents (including taking the child's history);
- Observation(s) of the child at play and in various settings;
- Observation(s) of parent-child interaction;
- Information gathered from family members, other caregivers, medical providers, social workers, and educators;
- Review of medical, educational, or other records;
- Neurodevelopmental or other physical examinations;
- Use of an evaluation instrument; and
- Identification of a child's level of functioning and needs in each developmental area.

The **informed clinical opinion** should reflect a meaningful assessment of the individual child's development and family resources, priorities, and concerns, and suggest areas that may require further evaluation and/or assessment. Informed clinical opinion may be used as an independent basis to establish child eligibility under Part C 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 for Part C.

(e) Ongoing evaluation of a child's eligibility and assessment and information gathering are part of the IFSP development and evaluation process (see Subpart D 7, §303.340). Ongoing evaluation, assessment and information gathering includes:

- (1) Annual re-evaluation of the child's eligibility for Part C services utilizing appropriate procedures described in Subpart D 6.4: If upon re-evaluation, a child with previous Type II eligibility does not show a significant developmental delay (25% in two or more developmental areas, or 50% delay in one developmental area), and does not continue to qualify for Part C services, the child is no longer eligible for Part C services. Before exit, the FSS assists the family, if they so desire, in determining other service options in their community.
- (2) Ongoing assessment and information gathering described in Subpart D 6.1 and D 6.2 is completed in preparation for the development of a new IFSP on an annual schedule (Subpart D 6.3, D6.4, D 7.1) and a review and update of the IFSP on a six-month schedule or more frequently if conditions warrant or if the family requests an IFSP review. Information will be used to assist in the development of

the new IFSP or periodic review, including IFSP documentation of child developmental information, child and family service list, statement of family strengths, and outcomes and strategies.

D 6.3 Post-Referral Timeline (§303.310)

- (a) Except as provided in Subpart D 6.3 (b) of this section, the initial evaluation and the initial assessments of the child and family under Subpart D 6.4 of this section (§303.321); and the initial IFSP meeting under Subpart D 7 (§303.342) must be completed within 45 days from the date the EIS provider receives the referral of the child (Subpart D 7.3 (c)).
- (b) Subject to Subpart D 6.3 (b) of this section, the 45-day timeline described in Subpart D 6.3 (a) of this section does not apply for any period when:
- (1) The child or parent is unavailable at the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances documented in the child's early intervention records; or
 - (2) The parent has not provided consent for the initial evaluation or the initial assessment of the child, despite documented and repeated attempts by the EIS provider to obtain parental consent.
- (c) Procedures to ensure in the event the circumstances described in Subpart D 6.3 (b) (1) or 6.3 (b) (2) of this section exist, the EIS provider will:
- (1) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the EIS provider to obtain parental consent;
 - (2) 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 paragraph Subpart D 6.3.2 (a) of this section no longer exists or parental consent is obtained for the initial evaluation and the initial assessment of the child; and
 - (3) Develop and implement an interim IFSP, to the extent appropriate and consistent with Subpart D 7 (§303.345).
- (d) The initial family assessment must be conducted within the 45-day timeline in paragraph (a) of this section if the parent concurs and even if other family members are unavailable.

D 6.4 Evaluation and Assessment of the Child (§303.321)

- (a) Evaluation of the child relates to procedures for determining a child's initial and continuing eligibility (see Subpart B 5.2) for Part C services. The evaluation process is designed to be a responsive and individualized set of procedures for completing the eligibility determination process in fair and timely fashion, taking into consideration the unique characteristics of the child; the accumulated information about the child; and the child's family's choices regarding evaluation alternatives. In addition, the evaluation process is designed to provide the child's parents with appropriate information for making informed decisions regarding service options for their child and family.
- (1) Evaluation procedures are conducted by personnel qualified to utilize appropriate instruments, methods, and procedures.
 - (2) Each child and family are assisted in the evaluation process by a specific staff member of the EIS agency as the primary staff member responsible for assisting

the family through the eligibility determination process for Part C services. The term “Intake Coordinator” is used to describe the responsibilities of an individual within an EIS agency who coordinates the eligibility determination process for a specific family. This person may have different job titles across EIS agencies and may be the Family Support Specialist/Service Coordinator currently assigned as for the child and family.

(3) Following the provision of prior written notice (Subpart E 3.2), evaluation procedures and alternatives are explained to parents in their native language or preferred means of communication (e.g., sign language for a parent with a hearing disability). The parent's consent in writing is required before assessment and information gathering is initiated and consent for release of information forms are completed prior to collecting child records and data from previous evaluations or diagnostic processes from other agencies or professionals (see Subpart E 3).

(4) Parents have choices as to the level of involvement and role they wish to play in the child evaluation process.

(5) In consultation with families, evaluation procedures are selected based on the type of eligibility criteria which appears most appropriate for qualifying a child (Type I or II). The evaluation is individualized and multidimensional, meaning it is a comprehensive, integrated process during which data is gathered from multiple sources using multiple methods across multiple domains, disciplines, or content areas.

- **Type I eligibility evaluation** is conducted by a qualified diagnostician (physician or psychologist) utilizing evaluation procedures based on informed clinical opinion and/or diagnostic evaluations.
- **Type II eligibility evaluation** is conducted by qualified personnel trained to complete evaluations in one developmental area (in cases where eligibility determination is based on a 50% delay in a specific developmental area), or across developmental areas (in cases where eligibility is based on a 25% delay in two or more developmental areas). Type II evaluation procedures include direct use of reliable and valid developmental instruments/tests utilizing the guidelines of the instrument/test developer; and informed clinical opinion based on systematic observation, interviews with primary caregivers, and clinical opinion rating scales or checklists. The following list pairs qualified professionals to their appropriate developmental areas (this list is not inclusive):
 - Cognitive Development: Psychologists, Special Educators
 - Physical Development: Occupational Therapists, Physical Therapists (motor), Audiologists (hearing), Optometrists or Ophthalmologists (vision), Public Health Nurses;
 - Communication Development: Speech and Language Pathologists/Therapists, Audiologists;
 - Social or Emotional Development: Psychologists, Special Educators, Public Health Nurses;
 - Adaptive Development: Psychologists, Special Educators;

<ul style="list-style-type: none"> ○ <u>Comprehensive (all developmental areas)</u>: Psychologists, Special Educators, Public Health Nurses, Pediatricians; Family Support Specialists/Service Coordinators.
<p>(6) The multidisciplinary evaluation team is individualized for each infant and toddler and, at a minimum, includes: the child's parents, EIS agency staff member responsible for coordination of eligibility determination who is either Primarily or Comprehensively Certified (Intake Coordinator or Family Support Specialist/Service Coordinator), and one or more separate disciplines or professions related to Part C services as appropriate for each child. (This does not imply a child's evaluation must occur at one occasion with all evaluation team members present.)</p>
<p>(7) The evaluation must include:</p> <ul style="list-style-type: none"> • Administration of an evaluation instrument; • Taking the child's history (including interviewing the parent and other family members or caregivers, as appropriate); • Observations of child (in more than one setting when feasible); • Identifying the child's level of functioning in each developmental area (cognitive, physical including hearing and vision, communication, social or emotional, and adaptive skill development); • 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 • Reviewing medical, educational and/or other records.
<p>If in this process for Subpart D 6.4, where a child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child for eligibility) under Part C, the records indicate the level of functioning in one or more of the developmental areas (Subpart B 5.2, Subpart D 6.4) constitutes a developmental delay or the child otherwise meets the criteria for an infant and toddler with a disability (Subpart A, Subpart B 5.2) and if the child's eligibility is established in this way, the EIS provider must conduct assessments of the child and family in accordance to Subpart D 6.4,D 6.5. Using this process for eligibility determination will negate the need for completing all the above evaluation procedures (Subpart D 6.4).</p>
<p>(8) The Family Support Specialist/Service Coordinator will discuss and review the evaluation data with the parents and other multidisciplinary evaluation team members to determine if the findings are consistent with previous information collected, the parents' understanding of previous data and diagnosis, and the parents' and team's interpretation of any recent evaluation results.</p>
<p>(9) The Family Support Specialist/Service Coordinator, with the assistance of the multidisciplinary evaluation team members, discusses and reviews the results of the eligibility determination process with the family and establishes the child's eligibility status. Parents are able to discuss any concerns they have with the evaluation process or results. The Family Support Specialist/Service Coordinator and other team members provide information regarding early intervention service options for the child and family, including choosing not to pursue any or only specific services at this time.</p>

When the child is found not to be eligible (§303.322) for Part C services based on the evaluation conducted under §303.321 (Subpart 6.4), the EIS agency will provide the parent with prior written notice required in §303.421(Subpart E 3.2), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under §303.430 (Subpart E 5), such as requesting a due process hearing or mediation or filing a State complaint.

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

For a child who appears to be clearly eligible for Part C services (Type I diagnosis is established, evaluations meeting the requirements of Component 6.3.1 or Type II eligibility determination was previously completed, or in the informed clinical opinion of the multidisciplinary evaluation team, the child has characteristics or levels of development which, according to initial reports/observations, will make the child eligible), the effort focuses on initiating child assessment and family information gathering processes for families interested in pursuing Part C services. It is not necessary to conduct new evaluations when previous evaluation diagnostic reports and data indicate the child qualifies, or continues to qualify, for Part C services.

- (11) All evaluation information (verbal and written reports) is free of jargon and terms subject to misinterpretation by individuals involved in the evaluation process. The evaluation reports are readable for both families and professionals alike.
- (12) All evaluation information, including evaluation reports, consent for release of information to obtain evaluation information, prior written notice and parental approval of evaluations, and contact records, are maintained in an individual record for each child/family either through hard copies or via the State's data management system for case management.
- (13) Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment pursuant to §303.321, to facilitate the provision of services in the event a child has obvious immediate needs identified, even at the time of referral; and to ensure the requirements for the timely evaluation and assessment are not circumvented.
- (14) Determination a child is not eligible (§303.322). Based on the evaluation conducted under §303.321 (Subpart 6.4), the multidisciplinary team determines a child is not eligible for Part C services, the EIS agency will provide the parent with prior written notice required in §303.421(Subpart E 3.2), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under §303.430 (Subpart E 5), such as requesting a due process hearing or mediation or filing a State complaint. The Family Support Specialist/Service Coordinator will assist the family in determining their options, including utilizing other eligibility evaluation methods than those originally used to determine the child's eligibility and again, informing the family of their procedural safeguards/rights (see Subpart E). For those children who are receiving ongoing public health or social services, the EIS agency will notify the public health and/or social agency the child is no longer eligible for Part C

services.

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

(b) Child assessment and child information gathering is a family-directed individualized process based on the family's primary developmental and functional concerns regarding their child and their child's specific characteristics. The processes are designed to identify the child's strengths, abilities, and support and service needs. The processes are linked to the development of the initial and continuing IFSPs for the child and family (see Subpart D 7). Depending on their choices, family members may play a variety of roles in these processes such as information-provider, assessment-giver, and decision-maker. The assessment procedures follow the Type I or Type II evaluation for a child determined eligible for Part C services.

(1) Assessment procedures are conducted by personnel qualified to utilize appropriate instruments, methods, and procedures and are designed to identify the child's unique strengths and needs and early intervention services appropriate to meet those needs. In addition to the professionals listed in Subpart D 6, personnel may include social workers, child and/or family counselors, nutritionists, or other appropriate professionals, and are individually determined for each child.

(2) The Family Support Specialist/Service Coordinator and family members, if they choose, are responsible for coordinating assessment processes on a six-month cycle.

(3) Assessment and child and family information gathering processes are explained to parents in their native language or means of communication. Unless clearly not feasible to do so, all evaluations and assessments of the child will be conducted in the native language of the child, in accordance with the definition of native language in Subpart A - §303.25).

(4) Parents have choices as to the level of involvement and roles they wish to play in the child assessment and information gathering processes.

(5) Assessment and information gathering are multidimensional, meaning it is a comprehensive, integrated process during which data is gathered from multiple sources using multiple methods across multiple domains, disciplines, or content areas.

- Multiple sources refer to gathering information from individuals who are familiar with the child, including but not limited to family members, therapists, child care providers, teachers, physicians, nurses, and social workers.
- Multiple methods refer to a variety of processes related to assessment and child information gathering including, but not limited to direct testing, systematic and personal observations of the child in home and community settings, interviews with primary caregivers, and rating scales or checklists reflecting informed clinical opinion.
- Multiple domains, disciplines, or content areas refer to assessment or gathering child information across various dimensions, including but not limited to developmental status (cognitive, physical, communication, social or emotional development, and adaptive skill development), play skills, health status, temperament and behavioral characteristics, mastery motivation, learning style, environmental demands on the child, and characteristics of the

child's environment(s). This includes the review of the evaluation results used to determine eligibility for Part C services.

- Integrated process refers to combining and interpreting the information collected in the multidimensional process so synthesized information can be utilized in the program planning process, including assisting the family in interpreting the results of the assessment processes. Assessment information is relevant to the family's concerns regarding their child and is presented in a way all IFSP planning participants can understand.
- (6) Multidimensional assessment is a team process in which information and ideas are exchanged across team members with families participating at the level of involvement they choose.
- (7) Assessment or child information gathering is required in the domains, disciplines, or content areas listed below. Some information may be available from the process for documenting initial and continuing eligibility or previous services provided to child and family:
- A review of appropriate information and records related to the child's current health status and medical history, especially information which may influence Part C services and IFSP outcomes and strategies (see Subpart D 7). This may include, as appropriate but is not limited to information about physical examinations (including hearing and vision) and health assessments, seizure disorders, dental examinations, nutritional assessments, and medications and immunization history.
 - Assessment information related to the child's developmental status (level of functioning) in the following developmental areas:
 - Cognitive development;
 - Physical development (including gross motor, fine motor, vision, and hearing);
 - Communication development;
 - Social or emotional development; and
 - Adaptive skill development.
- (8) Child and family assessment must include a focus on the child's natural environment (home and community settings) to design programs to improve the child's development across all the environments the child and family participate.
- (9) A synthesis of the assessment information related to the unique skills, abilities, and needs of the child results in the identification, with the family, of potential IFSP outcomes and strategies and Part C early intervention services and supports for the child.
- (10) Assessment and information gathering procedures are adapted to the cultural background, family values, ethnic origin, language, and means of communication used by the child and family. Assessment and information gathering procedures, materials, and instruments are selected and administered so as not to be racially or culturally discriminatory.
- (11) Unless clearly not feasible to do so, all evaluations and assessments of the child will be conducted in the native language of the child, in accordance with the definition of native language in Subpart A - §303.25).
- (12) All assessment information (verbal and reports) are free of jargon and terms

subject to misinterpretation by individuals involved in the assessment and information gathering process. Assessment reports are readable by families and professionals alike.

(13) All assessment information, including reports, consent for release of information to obtain assessment information, parental approval of assessments, and contact records are maintained in an individual record for each child/family either in a hard copy format or via the State's data management system case management records.

(c) Ongoing evaluation of a child's initial and continuing eligibility and assessment and child information gathering are one part of the IFSP development and evaluation process for children determined eligible through Type II eligibility processes (see Subpart D 7) (§303.340). Ongoing evaluation, assessment, and child information gathering occurs at least annually, at the IFSP date closest to the initial or previous ongoing evaluation date. The re-evaluation process is, as appropriate, based on evaluation methods and criteria utilized to initially qualify the child for Part C services. This does not imply a total re-evaluation using the original methods and criteria if they are not appropriate given the child's current age or characteristics. All children determined eligible through Type II eligibility criteria will have a re-evaluation of eligibility for Part C services. All children determined eligible through Type I Established Condition will need an updated Established Condition Statement signed by the diagnosing physician or psychologist.

(1) Annual re-evaluation of each child's initial and continuing eligibility for Part C services utilizing appropriate procedures described in Subpart D 6.4 is completed before the development of a new IFSP. Re-evaluation may be based on appropriate developmental assessments which are part of the IFSP assessment and child information gathering processes. Re-evaluation does not imply the exact same evaluation instrument must be used for re-evaluation. The re-evaluation procedures are integrated into the assessment and child information gathering process and do not require duplicate processes unless necessary in order to complete the re-evaluation process.

- A child's and family's Family Support Specialist/Service Coordinator and the family, organize the annual re-evaluation process, including the appropriate procedures outlined in Subpart 6.4.
- As appropriate, the child's and family's multidisciplinary team and/or IFSP team (see Subpart D 7) is involved in the re-evaluation process.

(2) For determination a child is not eligible (§303.322) based on the evaluation conducted under Subpart 6.4 (§303.321), the EIS agency will provide the parent with prior written notice required in Subpart E 3.2 (§303.421), and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under Subpart E 5 (§303.430) such as requesting mediation, a due process hearing or filing a State complaint. The Family Support Specialist/Service Coordinator will assist the family in determining their options, including utilizing other eligibility evaluation methods than those originally used to determine the child's eligibility and again, informing the family of their procedural safeguards/rights (see Subpart E). For those children who are receiving ongoing public health services, the EIS agency will notify the local public

health agency the child is no longer eligible for Part C services.

(3) For a child/family who continues to qualify for Part C services, assessment and child information gathering described in Subpart 6.4 are part of the IFSP evaluation and development process (see Subpart D 7).

D 6.5 Family Information Gathering (§303.321 (c) (2))

Family information gathering is a family-directed process during which the family voluntarily shares information with qualified professionals about their concerns, needs and priorities related to their child's development, as well as information about their family's resources related to support and service outcomes for enhancing the family's capacity to meet the development and care of their child. Family information gathering is used instead of family assessment to reflect respect for the family's role in exchanging and sharing information they consider important. The family may contemplate a variety of circumstances which may have an impact on their eligible child, thus, family information gathering must not be limited to just the direct family-focused services provided by the EIS agency if the family identifies other areas of concern. (This does not imply the EIS agency will directly provide all family-related services, but it does mean they will assist a family in addressing family-related issues when a family makes such a request.)

- (a) Family information gathering is designed to determine resources, priorities, and concerns of the family related to enhancing the development of the child. Sharing family information with EIS staff and early intervention professionals must be voluntary on the part of the family.
- (b) Gathering family information is conducted by personnel qualified to utilize appropriate methods and procedures.
- (c) Following prior written notice (Subpart E 3.2), family information gathering processes are explained to parents in their native language or means of communication. Parents' consent in writing is required before family information gathering is initiated.
- (d) Family information gathering is a family-directed process. Each family must be provided options regarding how they would like to share family information including, but not limited to, an interview such as the Routines-Based Interview or conversation and review of or completion of self-assessment checklists, inventories, surveys, eco-maps or questionnaires designed to help families determine their concerns, needs, priorities, supports, and resources related to their child's development. (The latter tools do *not* refer to formal "psychosocial" family assessment instruments designed to measure depression, personality characteristics, and dysfunctional behavior.)
- (e) Family information incorporates the family's description of their resources, priorities, and concerns which relate to the enhancement of their child's development and to outcome statements in the family's IFSP and their resources and supports related to each outcome statement (see Subpart D 7).

D 6.6 Assessment and Information Gathering is a Team Process

Given the breadth of the processes outlined in Subpart D 6.3 through D 6.5, evaluation, assessment, and family information gathering must be a team process. At a minimum, the team will include family members and professionals from two or more separate disciplines or professions, including the Intake Coordinator (for initial

evaluations) and/or the Family Support Specialist/Service Coordinator for assessment and family information gathering. To gather information for a multidimensional evaluation or assessment of a child, other professionals and caregivers are involved in sharing information about the child. It is not the sole responsibility of the family members and Intake Coordinator or Family Support Specialist/Service Coordinator to complete the multidimensional assessment of the child.

Likewise, child assessment and child information gathering activities in the required domains, disciplines, or content areas are not the sole responsibility of the family members and Intake Coordinator or Family Support Specialist/Service Coordinator. Other professionals or disciplines have data, reports, or clinical information related to those domains, disciplines, or content areas. Assessment and child information gathering team participation is not limited to meetings and includes sharing information through reports, telephone contacts, letters, or electronic communication.

- (a) The multidisciplinary team for evaluation or assessment and information gathering must include family members; the Intake Coordinator and/or Family Support Specialist/Service Coordinator; and other professions or disciplines as defined (two or more separate disciplines or professions).
- (b) The multidisciplinary team will collaborate with other professionals or disciplines and caregivers in the evaluation or assessment and information gathering processes. Family members and the Intake Coordinator and/or Family Support Specialist/Service Coordinator jointly determine who else will assist the evaluation or assessment and information gathering processes.
- (c) Family members have opportunity to be involved in all evaluation or assessment and information gathering discussions unless they explicitly choose not to be directly involved and decide the content of any assessment and/or information gathering discussions can be shared with them later.
- (d) Team participation is not limited to sharing information through meetings. A variety of information sharing methods may be used including, but not limited to, telephone conference calls, telephone contacts, sharing reports, video/audio records, letters, and electronic communication.

Individualized Family Service Plan

D 7 Individualized Family Service Plans (§303.340 - §303.346)

Montana's policies and procedures for the initial, annual and, as appropriate, interim Individualized Family Service Plan (IFSP) are consistent with §303.20, §303.340 - §303.346. Montana's ECFSD ensures the development, review, and implementation of an Individualized Family Service Plan (IFSP) developed by a multidisciplinary team, which includes the parent, that:

- Is consistent with the definition of the term in §303.20; and
- Meets the requirements in §§303.342 through 303.346.

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

D 7.1 Assurances

(a) The ECFSD assures an IFSP system developed in accordance with §303.342 for eligible infants and toddlers, including:

- (1) Evaluations, assessments, and information gathering related to IFSPs are

conducted in accordance to Subpart D 7 - IFSP (§303.10 - 303.321);

(2) An IFSP is developed in accordance to the 45-day timeline specified in Subpart D 7.3 (related Subpart D 6.3) (§303.342(a)), Subpart D 7.3 (also covers: §303.342 (b) - semi-annual review and as needed or requested by parent, §303.342 (c) - annual review, evaluate and revise and §303.342 (d) - accessibility and convenience of meetings);

(3) An interim IFSP is developed in the event an eligible child and the child's family have obvious immediate needs identified, at the time of referral (e.g., a physician recommends that a child with cerebral palsy begin receiving physical therapy as soon as possible), so early intervention services may commence before the completion of the evaluation and assessment pursuant to §303.345, if the following conditions are met:

- Parental consent is obtained;
- An interim IFSP includes the name of the Family Support Specialist/Service Coordinator who will be responsible, consistent with §303.344(g), for implementation of the interim IFSP and coordination with other agencies and persons; and includes the early intervention services determined needed immediately by the child and the child's family; and
- The evaluation and assessment are completed within the 45-day timeline required in §303.310 (Subpart D 6.3);
- Service and support coordination are provided to each eligible child and child's family in accordance with the definition of service coordination (see Subpart A - §303.34);
- The IFSP is developed, implemented and evaluated by a multidisciplinary team including the eligible child's parents and two or more individuals from separate disciplines or professions and one of these individuals must be the child's and family's Family Support Specialist/Service Coordinator (§303.24 (b)).

(b) The ECFSD assures an IFSP is in effect and implemented for each eligible child and the child's family in accordance to Subpart D 7 (§303.340 - §303.346).

(c) The ECFSD's IFSP procedures for developing, reviewing, and evaluating initial and annual IFSPs are in accordance with Subpart D 7 (§303.340 - §303.346).

(d) The ECFSD is responsible for ensuring the requirements of Subpart D 7 are implemented by all appropriate State agencies and EIS agencies (Subpart B 11, Subpart F). IFSP development, implementation, review, and evaluation services in accordance to the requirements of Subpart D 7 are included in the contractual document with each contracted EIS agency.

The ECFSD will complete the following activities to ensure the implementation of the revised requirements of Subpart D 7:

- (1) All State agencies and EIS agencies have an opportunity for input to the ECFSD's Part C Application, including the policies and procedures contained in the plan.
- (2) The ECFSD's Part C Application, including IFSP policies and procedures, is revised according to feedback gathered during the period of public response and hearings.
- (3) Part C IFSP policies and procedures are accessible to all appropriate State

agencies, EIS agencies, and professional organizations for the professional disciplines included in Part C.

(4) The ECFSD will conduct and/or arrange for educational workshops for EIS agency personnel regarding:

- Revising internal policies and procedures in accordance to requirements of Subpart D 7; and
- Locally or regionally implementing policies and procedures in accordance with the revised requirements of Subpart D 7.

(5) The ECFSD will revise and maintain service agreements with other State agencies in accordance to appropriate requirements of Subpart D 7 (see Subpart B 11, Subpart F 4).

(6) The ECFSD will continue to provide and/or coordinate technical assistance related to ongoing implementation of the requirements of Subpart D 7.

(7) The ECFSD will continue to implement a monitoring system to ensure compliance with requirements of Subpart D 7 by EIS agencies, including obtaining consumer evaluation feedback.

(e) "Individualized Family Service Plan" and "IFSP" means a written plan for providing early intervention and support services to a child eligible for Part C services and the child's family. Each IFSP must meet the requirements of Subpart D 7 (§303.340 - §303.346) and must:

- (1) Be jointly developed by a multidisciplinary team including the family, the child's and family's Family Support Specialist/Service Coordinator, and other qualified personnel involved in evaluation, assessment and/or the provision of early intervention and support services (§303.342 and §303.343);
- (2) Be based on the multidisciplinary evaluation and assessment of the child, and family-directed information gathering regarding the family's concerns, needs and priorities, and related strengths and resources for their child's development as required in Subpart D 6 (§303.303 - §303.321);
- (3) Include services necessary to enhance the development of the child and the capacity of the family to meet the identified priorities and needs of the child; and
- (4) An IFSP is developed, implemented and evaluated for each eligible child under Part C. If there is a dispute between agencies as to who has responsibility for developing or implementing an IFSP, the ECFSD shall resolve the dispute, or assign responsibility (Subpart B 11, Subpart F 4).

(f) In relationship to the IFSP, the term "parent" (Subpart A - §303.27) means a parent, foster parent, guardian, a person acting as parent of a child, or surrogate parent who has been appointed in accordance to Subpart E 4.1. However, the term does not include the State of Montana if the child is a ward of the State, EIS provider or public agency. The term "family" means "two or more people who define themselves as a family and who, over time, assume those obligations to one another generally considered an essential component of family systems" (p.8) (Hartman A. [1981, January]. The Family: A Central Focus for Practice, Social Work, 7-13). (Note: Parent includes persons acting in the place of a parent, such as a grandparent or stepparent with whom the child lives, as well as persons who are legally responsible for the child's welfare.)

(g) The child's and family's Family Support Specialist/Service Coordinator is qualified

and responsible for service coordination services related to monitoring the development, implementation, and evaluation of the IFSP, including planning related to transition to preschool or other services when appropriate as defined in Subpart D 7 (see Subpart A - definition of service coordination). Service coordination related to the IFSP is an active, ongoing process involving:

- (1) Assisting and enabling families of eligible children in gaining access to and receiving early intervention, support, and other services identified in the IFSP, and the rights under Part C, including procedural safeguards;
- (2) Coordinating or assisting the family to coordinate, if they so choose, the provision of early intervention, support, and other services (including services across agency lines and includes educational, social and medical services not provided for diagnostic or evaluative purposes) the child needs or is being provided;
- (3) Continuously seeking or assisting the family in seeking, if they so choose, the appropriate supports, services, and situations necessary to benefit the development of each child being served for the duration of the child's eligibility;
- (4) Facilitating and participating in the development, review, and evaluation of initial and annual IFSPs;
- (5) Facilitating the development of a transition plan to preschool services or other appropriate community services for children who are not eligible for Part B preschool services; and
- (6) Serving as the single point of contact for carrying out the activities outlined for service coordination in Subpart A - §303.34.

D 7.2 Individualized Family Service Plan Overview

The Individualized Family Service Plan (IFSP) is a written plan for providing supports and services correlated to outcomes identified through a multidimensional and multidisciplinary assessment and information gathering process and determined by an eligible child's family as important to enhancing the care and development of their child and the capacity of the family to meet the specific support and service needs of their child.

- (a) The IFSP is a written plan serving as an agreement between a family with an eligible child; the EIS agency; and other service providers regarding the supports and services the family identifies as important to enhancing the care and development of their child and the capacity of the family to meet the specific support and service needs of their child. The IFSP document and process connects support and intervention service outcomes and strategies across the IFSP team; assists in improving the results of supports and services by specifying outcomes, strategies, and intervention services; serves as a basis for monitoring intervention service delivery and impact of supports and intervention services; and meets legal requirements for the State and EIS agency.
- (b) The IFSP is based on multidimensional, multidisciplinary child assessment and information gathering and family-directed information gathering processes described in Subpart D 6. The assessment and information gathering activities serve as the first step in the IFSP development process.
- (c) The IFSP is jointly developed by the family, Family Support Specialist/Service

Coordinator, and other IFSP team members making up the multidisciplinary IFSP team. The IFSP is the family's plan and they have final authority regarding the specific content of the IFSP: child developmental information, family information, child and family outcomes, strategies, transition planning, and IFSP evaluation information. Parents retain the ultimate decision in determining whether they or their child will accept or decline services. Parents may decline a service after first accepting it, without jeopardizing other early intervention services under Part C (§303.420)

Subpart E 3.1.

- (d) The IFSP process provides information important to the development of a comprehensive plan which includes: demographic information, identified service coordinator(s), transition planning information, child development information, child and family intervention services list, outcome statements, family strengths and resources related to outcomes, strategies related to outcome statements, and medical and other services the child needs, but are not required under Part C, and the funding sources used in paying for services or the steps taken to secure services through public or private sources.
- (e) The contents of the IFSP are fully explained to the parents and informed written consent from the parents is obtained prior to the provision of IFSP supports and services. If the parents do not provide such consent with respect to an IFSP support or service, then the IFSP supports and services for which such consent is obtained shall be provided.
- (f) The IFSP is dynamic and modified as needed to reflect the current supports and services identified by the family as important for the care and development of their child.

D 7.3 IFSP Development Procedures (§303.342, §303.343)

The child and family's initial IFSP must be developed within 45 days after referral (except under certain circumstances stipulated Subpart D 7.3)), reviewed on a regular basis, and evaluated and revised, as necessary, every six months. The IFSP is developed by the family, Family Support Specialist/Service Coordinator, and other qualified professionals through a process beginning with assessment and information gathering and is formally completed at the IFSP meeting (§303.342 - Subpart D 7.3).

- (a) For a child evaluated for the first time and determined eligible for Part C services, a meeting is conducted to develop the child and family's initial IFSP within 45 calendar days after referral except in circumstances described in Subpart D 6.3 (b) and Subpart D 7.3.
- (b) Reasons for delaying the development of an IFSP must be documented in the child's and family's record and must meet the criteria stipulated in Subpart D 6.3 (b) and Subpart D 7.3 (c).
- (c) The IFSP must be reviewed by the family and the Family Support Specialist/Service Coordinator at least monthly or more frequently if conditions warrant or if the family requests a review. The review is documented in the child's and family's record and includes:
 - (1) Determination of progress made toward completion of outcomes and implemented strategies;
 - (2) Determination of need for modification, revision, adding, or dropping of

outcomes and strategies including early intervention services identified;

(3) A meeting or other means (e.g., virtual methods) acceptable to the family and other participants; and

(4) Determination of which IFSP team members should be informed and by what means regarding any changes in the IFSP outcomes, strategies, or services.

(c) Each IFSP must be revised and rewritten, as necessary, and evaluated, at a minimum, every six months. After the initial IFSP, the IFSP is rewritten annually. Participants in IFSP activities include the family, Family Support Specialist/Service Coordinator, and other IFSP team members (see Component 7.3.4). The family evaluates the IFSP process and impact to determine the degree to which progress toward achieving the IFSP results or outcomes is being made (as described in Subpart D 7.9 through D 7.12, D 7.16). The Family Support Specialist/Service Coordinator updates evaluation information in the child and family's IFSP. For a child and family who will continue to be eligible for and receive Part C services, each section of the IFSP is updated and revised and/or rewritten. The results of any specific assessment and information gathering procedures conducted under Subpart 6, (including incidental assessment and information gathering which occurs in the ongoing provision of support and services) or other pertinent information is considered in the development of a new IFSP.

The IFSP six-month cycle may be adjusted under special circumstances, with the parents' agreement or through their specific request. Special circumstances include a different time length period to synchronize planning with another agency (e.g., preschool IEP planning meeting/transition planning meeting), unexpected family circumstances (e.g., health problem of one of the parents interferes with the six-month cycle), or child circumstances (e.g., unexpected health problem of child). Under no circumstances will the IFSP evaluation cycle be adjusted beyond a twelve-month period.

(d) Participants in the meeting for development of the initial and annual IFSP and periodic reviews comprise a multidisciplinary team including parent(s); Family Support Specialist/Service Coordinator, qualified professional(s) involved in evaluation, assessment, and/or information gathering activities; person(s) involved in providing support or intervention services to the child or family; other family members as requested by the parent; and advocate or other support person as requested by the (§303.343 – Subpart D 7.4).

Each child's and family's IFSP team is individualized in the context of the child and the concerns, needs, priorities and resources of the family. The family and Family Support Specialist/Service Coordinator discuss potential IFSP team members. Families discuss the options and resources to determine who should be involved with service provision. IFSP team members may participate in the development of the IFSP even when they cannot attend an IFSP meeting (see Subpart 7.4 (e)).

If an IFSP team member described above is unable to attend an IFSP meeting, arrangements must be made for their involvement through other means, including:

- (1) Participating in a telephone conference or other type of electronic conferencing including virtual means;
- (2) Having a knowledgeable authorized representative attend the meeting; and/or
- (3) Making pertinent records available at the meeting.

Beyond minimum participants required in §303.343, the family has final authority on deciding who will participate in the development of the IFSP and in IFSP meetings. Each child's and family's IFSP team is dynamic and membership changes according to the needs of the child and concerns of the family regarding their child's development and care.

- (e) The process of crafting the child's and family's IFSP is developmental and requires a partnership between family members, the Family Support Specialist/Service Coordinator, and other IFSP team members.
 - (1) Information is shared and exchanged between the IFSP team members (following appropriate procedural safeguards, see Subpart E) to assist the family in making informed decisions regarding their IFSP processes (e.g., determining developmental status of their child, IFSP team membership) and IFSP content (e.g., intervention services and supports and the expected outcomes of the supports and services).
 - (2) Information must be provided in the family's native language and/or by means of communication which the family can understand (i.e., understandable by the public) (see Subpart E).
 - (3) Development of the IFSP is family-directed. Families have opportunities to choose the role(s) they wish to play in the development of the IFSP, including what decisions (e.g., IFSP team membership) they want to make.
 - (4) A family's role(s) in developing their IFSP may change over time. Families are have opportunity to choose their role(s) with the development of each new IFSP.
 - (5) The strategies used from the start of assessment and information gathering to the development of a completed IFSP are individualized to meet the unique characteristics of each child and family and reflect the choices each family makes regarding their concerns, needs, priorities, and resources related to supports and services for their child and family.
- (f) The Family Support Specialist/Service Coordinator must obtain parental consent prior to the provision of IFSP supports and services (Subpart E 3 - §303.420, §303.341).
 - (1) The Family Support Specialist/Service Coordinator must fully explain the contents of the IFSP to the parents.
 - (2) The Family Support Specialist/Service Coordinator must obtain informed written consent from the parents prior to the provision of IFSP supports and services.
 - (3) If the parents do not provide consent with respect to an IFSP support or service, then the IFSP supports and services to which the consent is obtained shall be provided.
 - (4) If the parent withdraws consent after first providing consent for an early intervention service, that service may not be provided.

D 7.4 IFSP Team Meeting (§303.342, §303.343)

The purpose of the IFSP team meeting is to combine the information collected during the IFSP development process into a comprehensive plan regarding supports and intervention services identified by the family as important for the care and development of their child. The IFSP meeting provides an opportunity to determine and communicate with the IFSP team and intervention service providers appropriate details of services and supports listed in the IFSP (see Subpart D 7.3 (d) for IFSP team membership - §303.343).

- (a) The family and Family Support Specialist/Service Coordinator determine IFSP meeting times (for the convenience of the family), date and settings which maximize the participation of all IFSP team members, especially family members.
- (b) The family and Family Support Specialist/Service Coordinator jointly determine the agenda for the IFSP meeting. (The family may feel certain details of the IFSP are personal and should not be discussed with the whole IFSP team.)
- (c) The family and Family Support Specialist/Service Coordinator determine, before the IFSP meeting, how decisions will be made regarding the IFSP during the IFSP meeting (e.g., by consensus of the team). The needs of the child and family are determined in a collaborative manner with the full agreement and participation of the parents of the child. The family has final authority regarding the content of their IFSP with regards to child development information, family information, child and family outcomes, strategies, services and supports, transition planning, and IFSP evaluation information. Parents retain the ultimate decision in determining whether they, their child, or other family members will accept or decline services.
- (d) The IFSP meeting agenda and arrangements are communicated to IFSP team participants in writing early enough before the meeting date to ensure they will be able to participate.
- (e) If any person(s) involved in conducting evaluation and assessment activities is unable to attend an IFSP meeting, arrangements must be made for the person's involvement through other means, including but not limited to:
 - (1) Participating in a telephone conference call and other electronic communications (virtual means);
 - (2) Having a knowledgeable authorized representative attend the meeting;
 - (3) Participating in discussions regarding IFSP development prior to the IFSP meeting through telephone conferences, virtual meetings, additional meetings, and sharing of pertinent information (e.g., reports, recommendations). Such participation is limited to the sharing and discussion of pertinent information with IFSP team members, especially parents, and may not predetermine, in any way, the content of the IFSP document; and
 - (4) Making pertinent records and recommendations available to the IFSP team at the time of the meeting.
- (f) In instances where an eligible child must have both an IFSP and an individualized service plan under another Federal program, whenever feasible, appropriate, and desired by the parent, a single consolidated document may be developed. Such a consolidated document must contain all of the required information in Subpart D 7.5 through D 7.15 (§303.344) and must be developed in accordance with the requirements for Part C services. Even if the development of a single document is

not possible, the coordinated development of the individual plans and meetings is explored.

IFSP Content D 7.5 – D 7.15 (§303.344)

Sections D 7.5 through D 7.14 outline each section content of the IFSP

D 7.5 General Information

This section includes general information about the child, their family, program items and Service Coordinator.

(a) Birth Date: The month/day/year of the individual's birth.

(b) Gender: Male or Female.

(c) Program: The name of the program the individual will be participating in (Montana's IFSP is used in other programs as well as Part C):

- Part C Early Intervention
- Family Education and Support

(d) Part C Referral Date: The month/day/year the child was referred to Part C services.

(e) Eligibility Date: The month/day/year the child was determined eligible for Part C services.

(f) Enrollment Date: The month/day/year the parent/guardian provided consent to enroll the child in the Part C Program.

(g) Medicaid eligible: Yes or No. If yes, record the Medicaid #.

(h) Private insurance: Yes or No. Consent to use private insurance, record yes or no.

(i) Montana's System of Payments: Record if the parent/guardian received and expresses understanding of Montana's System of Payments, yes or no.

Parent/guardian provides their initials after this statement.

(j) Type of IFSP: One of the following is selected with the month/day/year recorded:

- **Interim (only for Part C):** An explanation of why an interim plan was needed is required. The month/day/year is recorded.
- **Initial:** The first (non-interim) IFSP developed by the multidisciplinary team, including the family. The month/day/year is recorded. This is the individual's first full IFSP.
- **Annual:** The month/day/year of the completed IFSP. After the Initial IFSP is completed, all subsequent IFSPs are considered an annual IFSP.

(k) Prior written notice: Month/day/year prior written notice was provided.

(l) Consent for services date: Month/day/year parent/guardian consented to services.

(1) Signature date: record month/day/year parent/guardian provided their written signature consenting to the IFSP.

(2) This IFSP includes a Transition Plan: Yes or No

(m) IFSP Review (§303.342, §303.343):

- **Six-month review:** At a minimum, the IFSP must be reviewed within 6 months from the date of the initial IFSP. The expected date it will be reviewed, and the actual date reviewed are recorded with the month/year.
- **Annual review:** Each year, the IFSP must be reviewed, evaluated and a new IFSP be completed. The IFSP team is responsible to determine what progress is being made on the outcomes. Record the (1) expected date for

the IFSP annual review and rewriting and (2) actual date it is reviewed and rewritten.

- **Periodic review:** Refers to ANY other review taking place during the year. Each time a review occurred is recorded along with the month/year.

(n) Primarily lives with: Choose Parent(s) or Guardian(s) or Surrogate(s) or Foster Parent. Identify the primary language or mode of communication preferred by the parent/guardian. There are two boxes (Primary and other) allowing for parent(s), guardian(s), or surrogate parent(s) with separate addresses and contact information. The top box should be used for the person with whom the individual lives with most of the time.

- Name: First and last name
- Address: Street, city, zip code (physical address where child lives)
- Mail Address (if different from above): Street, post office box, route, city, zip code
- Home phone: Record the home phone number
- Work phone: Record the work phone number
- Cell Phone: Record the cell phone number
- Email: Record the email address
- Other only needs to be filled out if there are additional individuals in the child's life.

(o) Family Support Specialist/Service Coordinator (§303.343 (a) (iv), §303.344 (g) also see Subpart C 4.1 (a)): First and last name and a telephone number where the Family Support Specialist/Service Coordinator can be reached.

D 7.6 Family Information (§303.344)

(a) Families Concerns, Priorities and Resources: A summary of the information shared by the family's priorities for intervention services. Families provide consent to share this information.

- (1) Family Concerns: This section contains a summary of the family's identified concerns about their child's participation in the routines of the day and the child's health and development. It also includes information, resources, and supports the family wants or needs for the child and/or family.
- (2) Family Priorities: This section contains a summary of the family's most important priorities for the child and family at the time of the development of the IFSP.
- (3) Family Resources and Supports: This section contains a summary of the family's resources for support including people, activities, programs, and organizations.

D 7.7 Health Information

(a) Health information includes:

- (1) Child's health care provider
- (2) Height: Number in inches (in)/feet (ft)
- (3) Weight: Number in ounces (oz)/(lbs)
- (4) Physical: Month/day/year last seen by a physician/pediatrician and summary of results.
- (5) Dental: Month/day/year last seen by a dentist and brief summary of results.

- (6) General health: Summary of child's health history
- (7) Immunization Dates: Identify any delays in scheduling immunizations or if the family declines immunizations.
- (8) Medications
- (9) Vision: Month/day/year last seen by a vision specialist and brief summary of results.
- (10) Hearing: Month/day/year last seen by a hearing specialist and a brief summary of results.

D 7.8 Developmental Information (\$303.344)

- (a) Evaluation and Assessment (\$303.344 (a)):
 - (1) Initial and Annual IFSP: Record name of each evaluation or assessment tool completed to evaluate developmental areas: cognition, communication, social/emotional, adaptive and physical (including gross motor, fine motor).
 - (2) Six-month review IFSP: Record any assessment methods (e.g. observation, checklists) used for this review.
 - (3) Date(s) of Evaluation or Assessment: Record month/year the evaluation or assessment was completed to gather information for the initial, annual and six-month review IFSPs.
 - (4) Assessor name: Record the assessor's name
 - (5) Chronological age: Record the child's chronological age in years and months
 - (6) Age level/age range: Approximate Development Level: Record the approximate developmental level for the individual according to the result(s) from evaluations and assessments. The developmental level is stated in approximate age level and percent of development in comparison to same-aged peers.
 - (7) Qualitative description: Statements of development based on variety of strategies and tools including review of previous records, parent reports, evaluations and assessment tools, and observation of the child in natural environments. This is completed for initial, annual and six-month review IFSPs.

Child Outcomes Related to the Child's Developmental Strengths and Needs Summary:

In order to develop skills in the three Child Outcome functional areas (developing positive social-emotional skills; acquiring and using knowledge and skills; and taking appropriate action to meet needs), this section is completed in conjunction with the parent/guardian at the initial IFSP team meeting and annual IFSP team meeting prior to the child's exit from the Program. If the child is under six months old at the time of the initial IFSP, this section is completed at the six-month review IFSP:

- Child's Strengths: What are some things my child likes to do? What skills does my child demonstrate or is beginning to demonstrate?
- Child's Needs: What are some skills or behaviors that my child does not do or are difficult for my child? In what activities or skills areas does my child need considerable support and/or practice?
- How does my child's developmental relate to his/her same-age peers? A rating between 1-7 is determined.
- Has my child shown any new skills or behaviors related to the specific child outcome since the last Strengths and Needs Summary Statement?

<p>Parent/guardian answers question prior to the child's exit from the Program.</p>
<p>D 7.9 Outcomes (§303.344 (c))</p>
<p>(a) Outcome: The description of the desired result(s) (skills, knowledge, behaviors) for the child and/or family and the specific step(s) required to achieve the outcome.</p> <ul style="list-style-type: none"> (1) Assessment(s) used to develop this outcome: the name(s) or type(s) of formal or informal assessments. (2) Outcome statement: <i>What would you like to see happen?</i> (3) Strategies/Activities/Learning Opportunities: <i>What steps shall we try and where do we start to help accomplish this outcome?</i> (4) Measurable criteria: <i>How will we know the outcome is achieved?</i> (5) Timeline: Summary of when strategies will begin and the expected review date. Expected start date, actual start date, expected completed date, actual completion date is completed throughout the course of the IFSP versions. (6) Participants: Who will be involved in achieving the outcome? Include names, titles, phone numbers and/or email addresses of those personally responsible for carrying out the activities to achieve the outcome. (7) Outcome Progress Review: Progress toward achieving the outcome is formally documented in the IFSP at the six-month review and annual review. The parent/guardian rates the progress (proficient, in progress, needs development, no longer needed or postponed), dates, and initials. Any other comments are captured in this section. If the progress response is <i>needs development</i>, the parent/guardian, Family Support Specialist/Service Coordinator, and other IFSP team members, as appropriate, determine whether to revise outcome, modify strategies/activities; change the service; or document other responses.
<p>D 7.11 Transition Plan (§303.344 (h))</p>
<p>Montana's IFSP includes a Transition Plan to assist the child and family prepare for transition from the Part C Program. This is an opportunity for the family and the IFSP team to assess what new skills and behaviors may be needed and to determine the supports, services and action steps the individual and family will need to provide for a smooth transition. As appropriate, the Transition Plan may include educating parents regarding future placements and other matters related to the child's transition from Part C services.</p> <p>The family and the Family Support Specialist/Service Coordinator begin discussions about transition process, timelines for the transition, and to where/what service (Part B preschool, other community services, etc.) no later than when the child will turn two years, three months of age. Initial conversations focus on sharing information about the process itself, similarities and differences between services and identifying the family's questions and priorities for the transition.</p> <p>The IFSP contains confirmation the Transition Notification (requiring Child Find information to be transmitted to the LEA or the relevant agency) has occurred. The IFSP will contain identification of specific transition services deemed necessary by the IFSP team. A transition meeting will occur with the appropriate schools/programs which will result in the final transition plan/outcomes. [Note: See the transition policies and procedures, Subpart C 10. The Montana Guidance: Children Transitioning from IDEA Part C to IDEA Part B manual provides specific details</p>

concerning Part C to Part B IDEA transitions.]

- (a) Transition Plan: The steps and activities to support the child and the family as they leave the intervention program and transition to preschool special education or other community options or resources. Transition steps and strategies are developed to identify specific strategies and timelines to meet transition requirements and result in achieving the Transition Outcome.
- (1) Child's date of birth
 - (2) Date plan was started
 - (3) What services and supports will the Family Support Specialist/Service Coordinator provide to the family? Identify persons who need to be involved and anticipated date for activities to be completed by.
 - (4) What strategies, activities or learning opportunities will we try to smoothly transition from Part C? Identify persons who need to be involved and anticipated date for activities to be completed by.
 - (5) What specific programs available in the community do you want to investigate? Identify persons who need to be involved and anticipated date for activities to be completed by.
 - (6) Lead Education Notification date. Was additional information sent to Local Education Agency with parent consent?
 - (7) Parent opted out of notification and date? Parent did not sign consent to share additional information.
 - (8) Other transition conference (conference held with programs or community resources that are not part of the LEA) scheduled date
 - (9) Other transition conference was held date
 - (10) List participants at other transition conference
 - (11) Part C to B Transition Conference date
 - (12) Transition Conference Team Members, roles, and signatures.
 - (13) Implementation Date - the date the transition plan and outcomes are to begin.

D 7.13 Services (§303.344 (d))

This section of the IFSP identifies the intervention services expected to be utilized by the family in support of meeting the IFSP outcomes. (The decision to provide a service or support cannot be based solely upon factors such as nature or severity of disability; age of individual; availability of services; administrative convenience; family preference (alone); payment source, or service provider preference.)

(a) Summary of Services and Supports

Part C Early Intervention Program provides services designed to enhance the child's development and include:

- Family training, counseling, and home visits
- Special instruction
- Speech-language pathology
- Audiology services (including sign language and cued language services)
- Occupational therapy
- Orientation and mobility services
- Physical therapy
- Psychological services

- Medical services for diagnostic or evaluation purposes
- Health services necessary to enable the child to benefit from other early intervention services
- Nursing services
- Nutrition services
- Social work services
- Vision services
- Assistive technology devices and assistive technology services, and
- Related transportation costs necessary to enable the child and the child's family to receive any of the above early intervention services.

Part C early intervention services are based on peer-reviewed research (to the extent practicable) and are necessary to achieve the outcomes identified in the IFSP (§303.344 (d)).

- (1) Program and Service Types: Record the Part C Program and type of each early intervention service needed to achieve the outcomes/objectives identified on the IFSP.
- (2) Service Provider (agency name, therapist name, practice name, etc.) and the qualification (FSS, OT, PT, etc.).
- (3) Frequency (number of times (days or sessions) per week, month or year) - the number of times the service will be provided per week, month or year (2x a month or 4x a year).
- (4) Intensity (length of session) - the length of time (number of minutes or hours) the service will be given per session.
- (5) Setting – record where the service(s) is provided: home, community or other. If other is chosen, justification is required to be completed.
- (6) Method – record the method to provide the service: group, individual, or through consultation.
- (7) Financial responsibility – record the funding source for the provision of the early intervention service.
- (8) Projected service initiation date, projected service review date, projected duration and service ending date – record expected dates.

(b) Justification for Intervention Services Not provided in Natural Environments (§303.344 (d) (ii)):

- (1) Service –list the services and activities provided in a setting other than the child's natural environment (home or community settings).
- (2) IFSP Team recommendation – explanation of why the service(s) will not be provided in the natural environment (home or community settings).
- (3) Description of how the outcome will be achieved in this setting.
- (4) Description of what activities will be provided to include this outcome in the child's home and/or community environments in the future.
- (5) Description of any plan to transition the services to the child's home and/or community environments – record the individuals and what activities they will be responsible for and the timeline.

(c) Written Prior Notice – documentation of discussion to reach consensus about

services.

(d) Service Linkages: Community and Medical Supports

These are services and supports that assist the child or family and are being pursued or are being received but not required or funded by Montana Milestones Part C of the IDEA Early Intervention Program.

- (1) Services family is currently receiving – record the non-Part C service(s) the family is currently receiving.
- (2) Service(s) needed – record the non-Part C service(s) the family describes as needing.
- (3) Steps to be taken to assist the family in securing the service(s) – record who and what will occur to assist the family.
- (4) Check box if the IFSP Team discussion found that no medical or other services were identified at the time of the IFSP completion.

D 7.14 Signatures and Consent (§303.340 – §303.346)

This section serves as a record of the person(s) participating in the IFSP meeting either by being present or by providing information via a report or some other means. This provides identification of IFSP team members who are not present but are to assist in the implementation of the IFSP. This page is completed by the parent(s), guardian(s), and surrogate parent(s), Family Support Specialist/Service Coordinator, and other IFSP team members at the finalization of the written plan.

(a) IFSP Team Members

- Record Name, Discipline or Title, date signed, method of participation, and phone number.
- Signature – signatures are required for those who participated in person at the meeting and not required for those not present.
- Others I would like to have a copy of the IFSP sent to - record who the individual and/or family identified as needing to receive a copy(s) of the IFSP.

(b) Consent

The following items are explained to the family members who then review the items and indicating which are appropriate and acceptable for their child and family. The family member signs and dates the IFSP.

- (1) The IFSP was provided to the family members and I/we were informed of procedural safeguards and received a copy of Montana Part C System of Payments - the parent(s), guardian(s), surrogate parent(s), and individual, when appropriate; initial this statement at the finalization of the IFSP.
- (2) This plan reflects the outcomes that are important for my child and family.
- (3) I/we give consent for the intervention services described in this plan for my child and family.
- (4) I/we understand the plan will be shared with all team members listed so they can work in partnership on behalf of my family.
- (5) I/we do not consent for all the services and/or related outcomes in this IFSP to be carried out as written - the parent(s), guardian(s), surrogate parent(s), and individual, when appropriate; initial this statement at the finalization of the IFSP.
- (6) However, I do give consent for the following service(s) in this IFSP to begin - record which services the individual/family agrees to implement.
- (7) Parent(s)/Guardian(s)/Surrogate(s) Signature - sign and date at the finalization of the IFSP.
- (8) IFSP Team members and signatures are gathered signifying the team worked together to create the IFSP and agree this plan will guide our work – signature, discipline or title, date signed, method of participation, and phone number.

D 7.15 Implementation of IFSP Services and Supports

As part of the IFSP approval process, the IFSP is fully explained to the parents and their written approval is obtained (see Subpart 7.1-7.8). Services and supports identified in the *IFSP must be provided as soon as possible and as scheduled with the family* once the IFSP is completed and parental consent has been obtained (Subpart E 3, §303.342). Montana identifies this timeline as within 30 days of the IFSP completion and parental consent.

Under certain circumstances, services and supports may be provided before the

completion of evaluation, assessment, and information gathering and/or completion of the IFSP and when/if parental consent is obtained. An interim IFSP is developed which includes the name of the Family Support Specialist/Service Coordinator who will be responsible for implementation of the interim IFSP with other agencies and persons and the early intervention services determined to be needed immediately by the child and the child's family. Even under such circumstances, steps are taken to ensure completion of the evaluation, assessment, and information gathering, and IFSP development within the 45-day timeline (§303.310, §303.342 (a)).

The IFSP is a dynamic document which can be modified to reflect the family's current concerns regarding the supports and services related to the child's development and enhancing the family's capacity to meet the specific needs of their child.

(a) Services and supports identified in the IFSP can be initiated with the completion of the IFSP and approval of the parent through written consent. In cases where the parents only consent to certain services, those specific services shall be provided, even when other services were not approved by the parents.

(b) In situations where the child and family have obvious immediate needs (e.g., newborn child with a severe disability), services and supports can be provided before the completion of evaluation for eligibility determination, assessment and information gathering, and/or IFSP development if the following conditions are met:

- (1) Parental consent is obtained to provide interim services and supports;
- (2) An interim IFSP is developed which identifies the specific services and supports to be provided in the interim before a full IFSP is developed, and a Family Support Specialist/Service Coordinator is identified (see Subpart D 7.5); and
- (3) Steps are taken to complete the evaluation, assessment and information gathering, and IFSP meeting and development within the 45-day timeline.

(c) Once the IFSP is implemented, it is considered dynamic and can be modified to reflect the child's current support and service needs and family's current concerns regarding the supports and services related to the child's development and enhancing the family's capacity to meet the specific needs of their child. IFSP content areas, Subpart D 7.5 – D 7.15, can be changed if the following conditions are met:

- (1) Parent requests IFSP modification and modifications are discussed with the Family Support Specialist/Service Coordinator and other appropriate IFSP team members;
- (2) The Family Support Specialist/Service Coordinator follows the appropriate procedural safeguards (Subpart E) and the parent provides consent;
- (3) The IFSP modification is appropriately recorded in the child's and family's IFSP; and
- (4) The reason for the modification is recorded in the child's file.

D 7.16 IFSP Evaluation

In addition to the monthly review and monitoring (see Subpart D 7.3 (c), Subpart D 7.1), of the IFSP, IFSP implementation and results must be evaluated for each child and family with the completion of their IFSP six-month cycle. Child and family outcomes must be evaluated whenever an outcome is completed during the six-month cycle. The evaluation allows the parent to provide feedback regarding the

implementation of the services and supports related to the child and family outcomes and strategies identified in their IFSP. The evaluation provides an opportunity for the family and the Family Support Specialist/Service Coordinator to formally summarize the progress made and provides foundation when developing a new IFSP. IFSP evaluation is part of the accountability requirements for the EIS agency (see Subpart B 11, B 12).

- (a) Parents are provided an opportunity to evaluate the implementation and impact of their child's IFSP at the end of the IFSP six-month cycle, and implementation and impact of each child and family outcome when it is completed or at the six-month cycle evaluation if the outcome is to be continued. The evaluation process is explained to the family during the IFSP development process. The parent has time to evaluate the IFSP, outcomes and strategies and is not expected to complete their evaluation at the first request (e.g., a parent may want to discuss the evaluation with their spouse).
- (b) At the end of the six-month IFSP cycle, the FSS provides the parent with an opportunity to evaluate and provide feedback regarding the implementation of services and supports related to child and family outcomes and strategies identified on their IFSP. The evaluation includes determination of satisfaction with progress to date on completion of the outcomes.
- (c) As outcomes are completed during the six-month IFSP cycle, the parent will evaluate the implementation and impact of each child and family outcome using the review codes. If the parent notes an outcome needs development, the parent and the Family Support Specialist/Service Coordinator, with appropriate members of the IFSP team, determine if the outcome should be revised or if the strategies and activities should be modified or if services need to be change or other means to adjust the outcome.
- (d) The Family Support Specialist/Service Coordinator records the review and progress made on the IFSP at the end of the six-month cycle for each child's and family's IFSP and documents any notes from the review in the child's file. The review provides an opportunity to share with the family and IFSP team members, as appropriate, the progress made and what modifications or additions to the IFSP and service implementation may be necessary. The review is especially important for setting the foundation for the development of the new IFSP for a child and family.
- (e) The formal evaluation of the IFSP at six-month intervals provides the basis for program accountability between the EIS provider and the ECFSD. ECFSD monitors to assure evaluations of IFSPs occur at six-month intervals.

D 7.17 IFSP Early Intervention, Supports, and Related Services

IFSP services are individualized for each child and family and include early intervention and support services described in the definitions section for early intervention services (Subpart A - §303.13) which are provided in accordance to the EIS agency's contract (see Subpart B 11, B 12) and any interagency agreements (Subpart B 11) by qualified personnel (Subpart B 10). In addition, the IFSP lists other services which may not be required or funded by Part C but are important in reflecting a comprehensive plan for the child and family.

- (a) Early intervention services are provided in conformity with each child's and family's IFSP. (See Subpart A - early intervention definition (§303.13).)

- (b) Early intervention services, as appropriate to the culture and lifestyle of each child and family, are provided in natural environments in which infants and toddlers without disabilities participate to the greatest extent possible. (See Subpart A - natural environments definition §303.26.)
- (c) The appropriate location of early intervention services under Part C for some infants and toddlers might be a hospital setting during the period in which they require extensive medical intervention. However, for these and other eligible children, early intervention services must be provided in natural environments (e.g., home, child care centers or other community settings) to the maximum extent appropriate to the needs of the child.
- (d) Early intervention services include "health services" in accordance to the definition of health services. (See Subpart A - health services definition in §303.16). Health services refers to services necessary to enable an eligible child to benefit from early intervention services as provided by Part C.
- (e) Early intervention services include "transportation" in accordance to the definition of transportation services. (See Subpart A - transportation §303.13.) Transportation services include cost of travel and other related costs necessary to enable an eligible child and the child's family to receive Part C early intervention services.
- (f) Each agency or professional who has a direct role in the provision of early intervention services and supports is responsible for making a good faith effort to assist each eligible child and their family in achieving the outcomes in the child's and family's IFSP. However, Part C does not require any agency or person be held accountable if an eligible child does not achieve the development projected in the child's IFSP (§303.346).

Subpart E – Procedural Safeguards

E. Procedural Safeguards

E 1 General Responsibility of Montana’s ECFSD for Procedural Safeguards (\$303.400)

Montana’s ECFSD established policies and procedures consistent with §303.400, including:

- Procedural safeguards meet the requirements of the provisions on confidentiality in §303.401 through §303.417, parental consent and notice in §303.420 and §303.421, surrogate parents in §303.422, and dispute resolution procedures in §303.430;
- Ensure the effective implementation of the safeguards by each participating agency (including the ECFSD and EIS agencies) in the Statewide system involved in the provision of early intervention services under this part; and
- Make available to parents’ copies of the child’s early intervention record, at no cost to the parents.

E 2 Confidentiality of Personally Identifiable Information and Early Intervention Records

E 2.1 Confidentiality and opportunity to examine records (\$303.401)

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

(b) Montana’s policies and procedures concerning confidentiality (as required under sections 617(c) and 642 of the Act, the regulations in Subpart E 2.1 through E 2.17 (§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 and by participating agencies, including Montana’s ECFSD and EIS agencies, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. Each state must have procedures in effect to ensure that:

- (1) Participating agencies (including Montana’s ECFSD and EIS agencies) comply with the Part C confidentiality procedures in Subpart E 2.1 through E 2.17 (§303.401 through §303.417); and
- (2) The parents of infants or toddlers who are referred to, or receive Part C services, are afforded opportunity to inspect and review all Part C early intervention records about the child and the child’s family collected, maintained, or used under this part, including records related to screening, evaluations and assessments, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child’s early intervention record under this part.

(c) Applicability and timeframe of procedures:

The confidentiality procedures described in Subpart E 2.1 (b) of this section apply to the personally identifiable information of a child and the child’s family that:

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

- (2) Applies from the point in time when the child is referred for early intervention services under this part until the latter of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and State laws.
- (d) Disclosure of information:
- (1) Subject to Subpart E 2.1 (e) of this section, the ECFSD must disclose to the SEA and the LEA where the child resides, in accordance with transition requirements in Subpart C 10 (§303.209(b)(1)(i) and (b)(1)(ii)), the following personally identifiable information under the Act:
- A child's name.
 - A child's date of birth.
 - Parent contact information (including parents' names, addresses, and telephone numbers).
- (e) Montana exercises the option to inform a parent about intended disclosure:
- (1) Montana's policies and procedures require EIS agencies, prior to making the limited disclosure described in paragraph Subpart E 2.1(d) (1) of this section, to inform parents of a toddler with a disability of the intended disclosure and allow the parents a 14-calendar day time to object to the disclosure in writing.
- (2) If a parent objects during the 14-calendar day time, the lead agency and EIS provider are not permitted to make such a disclosure under Subpart E 2.1 (d) of this section and Subpart C 10.2 (§303.209(b)(1)(i) and (b)(1)(ii)).

E.2.2 Confidentiality (§303.402)

Montana complies with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by the Secretary and by Montana's ECFSD and EIS agencies pursuant to Part C of the Act, and consistent with Subpart E 2.1 through E 2.17 (§303.401 through §303.417). The regulations in Subpart E 2.1 through E 2.17 (§303.401 through §303.417) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including Montana's ECFSD and EIS agencies, in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR part 99.

E 2.3 Definitions concerning confidentiality (§303.403)

The following definitions apply to Subpart E 2.21 through E 2.17 (§303.402 through §303.417) in addition to the definition of personally identifiable information in Subpart A - §303.29 and disclosure in 34 CFR 99.3:

- Destruction means physical destruction of the record or ensuring personal identifiers are removed from a record, so the record is no longer personally identifiable under Subpart A -§303.29.
- Early intervention records mean all records regarding a child required to be collected, maintained, or used under Part C of the Act and the regulations in this part.
- Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of the Act and the regulations in this part with respect to a particular child. A participating agency includes the ECFSD

and EIS agencies and any individual or entity providing any Part C services (including service coordination, evaluations and assessments, and other Part C services), but does not include primary referral sources, or public agencies (such as the State Medicaid or CHIP program) or private entities (such as private insurance companies) acting solely as funding sources for Part C services.

E 2.4 Notice to parents (§303.404)

Montana's ECFSD and EIS agencies will give notice when a child is referred under Part C of the Act adequate to fully inform parents about the requirements in Subpart E 2.2 (§303.402), including:

- (a) A description of the children for whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
- (b) A summary of the policies and procedures 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 Subpart E 2.1 through E 2.17 (§303.401 through §303.417); and
- (d) A description of the extent the notice is provided in the native languages of the various population groups in the State.

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

E 2.5 Access rights (§303.405)

(a) Montana's ECFSD and EIS agencies will permit parents to inspect and review any early intervention records relating to their children collected, maintained, or used by the agency under this part. The agencies 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 Subpart E 5.1(d) and Subpart E 8.1 through E 8.4 (§303.430(d) and §303.435 through §303.439), and in no case more than 10 days after the request has been made.

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

- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;
- (2) The right to request the participating agency to provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
- (3) The right to have a representative of the parent inspect and review the early intervention records.

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

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

E 2.6 Record of access (§303.406)

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

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

E 2.7 Records on more than one child (§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.

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

E 2.8 List of types and locations of information (§303.408)

Montana's ECFSD and EIS agencies (as appropriate) will provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

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

E 2.9 Fees for records (§303.409)

(a) Montana's ECFSD and EIS agencies (as appropriate) may charge a fee for copies of records made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in paragraph (c) of this section.

(b) Montana's ECFSD and EIS agencies (as appropriate) may not charge a fee to search for or to retrieve information under Part C.

(c) Montana's ECFSD and EIS agencies (as appropriate) provide, at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.

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

E.2.10 Amendment of records at a parent's request (§303.410)

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

(b) Montana's ECFSD and EIS agencies (as appropriate) will decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If Montana's ECFSD and EIS agencies (as appropriate) 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 Subpart E.11 (§303.411).

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

E 2.11 Opportunity for a hearing (§303.411)

Montana's ECFSD will, on request, provide parents' opportunity for a hearing to challenge information in their child's early intervention records to ensure 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 Subpart E.5 (d) (1) (§303.430(d)(1)) provided such hearing procedures meet the requirements of the hearing procedures in Subpart 2.13 (§303.413) or may request a hearing directly under the State's procedures in Subpart 2.13 (§303.413 (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22)).

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

E 2.12 Result of hearing (§303.412)

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

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

E 2.13 Hearing procedures (§303.413)

A hearing held under Subpart E 2.11 (§303.411) must be conducted by Montana's ECFSD according to the procedures under 34 CFR 99.22.

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

E 2.14 Consent prior to disclosure or use (§303.414)

- (a) Except as provided in Subpart 2.14 (b) of this section, prior parental consent must be obtained before personally identifiable information is:
 - (1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to Subpart 2.14 (b) of this section; or
 - (2) Used for any purpose other than meeting a requirement of this part.
- (b) Montana's ECFSD and EIS agencies (as appropriate) or other participating agency may not disclose personally identifiable information, as defined in Subpart A §303.29, to any party except participating agencies (including the ECFSD and EIS agencies) part of the State's Part C system without parental consent unless authorized to do so under:
 - (1) Sections Subpart E 2.1 (d) (§303.401(d)), and Subpart C 10.2 (§303.209(b)(1)(i) and (b)(1)(ii)); or
 - (2) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part

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

- 34 CFR 99.30 means §303.414(a);
- “Education records” means early intervention records under §303.403(b);
- “Educational” means early intervention under this part;
- “Educational agency or institution” means the participating agency under §303.404(c);
- “School officials and officials of another school or school system” means qualified personnel or service coordinators under this part;
- “State and local educational authorities” means the ECFSD under §303.22; and
- “Student” means child under this part.

(c) Montana’s ECFSD and EIS agencies (as appropriate) will provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part) provided those procedures do not override a parent’s right to refuse consent under Subpart E 3.1 (§303.420).

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

E 2.15 Safeguards (§303.415)

- (a) Montana’s ECFSD and EIS agencies (as appropriate) must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.
- (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.
- (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State’s policies and procedures under Subpart E 2.1 through E 2.17 (§303.401 through §303.417) and 34 CFR part 99.
- (d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 442)

E 2.16 Destruction of information (§303.416)

- (a) The participating agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide services to the child under Part C of the Act, which is five years after the child has left Part C services, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80.
- (b) Subject to Subpart E 2.16 (a) of this section, the information must be either given to the parents if they request the information or destroyed at the request of the parents. However, a permanent record of a child’s name, date of birth, parent contact information (including address and phone number), names of service coordinator(s) and EIS provider(s) and exit data (including year and age upon exit, and any programs entered into upon exiting) may be maintained without time limitation.

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

E 2.17 Enforcement (§303.417)

Montana's ECFSD will have in effect the policies and procedures, including sanctions and the right to file a complaint under Subpart E 7.1 through E 7.3 (§303.432 through §303.434) the State uses to ensure its policies and procedures, consistent with Subpart E 2.1 through E 2.17 (§303.401 through §303.417), are followed and the requirements of the Act and the regulations in this part are met.

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

E 3 Parental Consent and Notice

E 3.1 Parental consent and ability to decline services (§303.420)

- (a) Montana's ECFSD and EIS agencies ensure parental consent is obtained before:
- (1) All evaluations and assessments of a child are conducted under §303.321;
 - (2) Early intervention services are provided to the child under this part;
 - (3) Public benefits or insurance or private insurance is used if such consent is required under §303.520; (Montana's Part C Informed Consent for the Use of Private Insurance, Montana's Part C Written Notification for the Use of Private Insurance and Public Benefits, Montana's Part C System of Payments, and Montana's Part C Procedural Safeguards are provided to parents) and
 - (4) Disclosure of personally identifiable information consistent with Subpart E 2.14 (§303.414).

Note: Montana is not addressing screening at this time. (Administering screening procedures under §303.320 used to determine whether a child is suspected of having a disability).

- (b) If a parent does not give consent under Subpart (a) (1) or (a) (2) of this section, the Montana's ECFSD and EIS agencies must make reasonable efforts to ensure the parent:

- (1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services available; and
- (2) Understands the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.

- (c) Montana's ECFSD and EIS agencies may not use the due process hearing procedures under this part or Part B of the Act to challenge a parent's refusal to provide any consent required under paragraph (a) of this section.

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

- (1) Determines whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under this part at any time, in accordance with State law; and
- (2) May decline a service after first accepting it, without jeopardizing other early intervention services under this part.

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

E 3.2 Prior written notice and procedural safeguards notice (§303.421)

(a) General.

Prior written notice must be provided to parents a reasonable time before the ECFSD and 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 the infant's or toddler's family.

(b) Content of notice

The notice must be in sufficient detail to inform parents about:

- (1) The action being proposed or refused;
- (2) The reasons for taking the action; and
- (3) All procedural safeguards available under this subpart, including a description of mediation in Subpart E 6 (§303.431), how to file a State complaint in Subpart E 7 (§303.432 through §303.434) and a due process complaint in the provisions adopted under Subpart E 5 (§303.430(d)), and any timelines under those procedures.

(c) Native language

- (1) The notice must be:

- Written in language understandable to the general public; and
- Provided in the native language, as defined in Subpart A - §303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

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

- The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
- The parent understands the notice; and
- There is written evidence the requirements of this paragraph have been met.

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

E 4 Surrogate Parents

E 4.1 Surrogate parents (§303.422)

(a) General.

Montana ECFSD ensures the rights of a child are protected when :

- (1) No parent (as defined in Subpart A - §303.27) can be identified;
- (2) The agency or other public agency, after reasonable efforts, cannot locate a parent; or
- (3) The child is a ward of the State under the laws of the State.

(b) Duty of the agency and other public agencies.

- (1) The duty of the agency or other public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for:
 - Determining whether a child needs a surrogate parent; and
 - Assigning a surrogate parent to the child.
- (2) In implementing the provisions under this section for children who are wards of the State or placed in foster care, Montana's ECFSD must consult with the public agency assigned care of the child.

- (c) Wards of the State:** In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by Montana's ECFSD under Subpart E 4.1 (b)(1) of this section, may be appointed by the judge overseeing the infant or toddler's case provided the surrogate parent meets the requirements in Subpart E 4.1 (d) (2) and (e) of this section.

- d) Criteria for selection of surrogate parents.
- (1) The agency or other public agency may select a surrogate parent in any way permitted under State law.
 - (2) Public agencies must ensure a person selected as a surrogate parent:
 - Is not an employee of ECFSD or any other public agency or EIS provider providing early intervention services, education, care, or other services to the child or any family member of the child;
 - Has no personal or professional interest conflicting with the interest of the child he or she represents; and
 - Has knowledge and skills ensuring adequate representation of the child.
- (e) Non-employee requirement; compensation
- A person who is otherwise contracted to be a surrogate parent under Subpart E 4.1 (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
- (f) Surrogate parent responsibilities: The surrogate parent has the same rights as a parent for all purposes under this part.
- (g) Montana's ECFSD responsibility: ECFSD must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after an EIS agency or public agency determines the child needs a surrogate parent.
- (Authority: 20 U.S.C. 1439(a)(5))

E 5 Dispute Resolution Options

E 5.1 State dispute resolution options (§303.430)

(a) General.

Montana's statewide system includes written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in Subpart E 5.1 b) through (e) of this section. Montana's ECFSD allows parents and EIS agencies to resolve informal complaints at the local level, however, the EIS agency must:

- (1) review with the parents all dispute resolution options they can exercise and
 - (2) review with the parents that they can choose another dispute resolution option at any time.
- (b) Mediation: ECFSD makes available to parties to disputes involving any matter under this part the opportunity for mediation meeting the requirements in Subpart E 6 (§303.431).
- (c) State complaint procedures: ECFSD adopted written State complaint procedures to resolve any State complaints filed by any party regarding any violation of this part meeting the requirements in Subpart E 7.1 through E 7.3 (§303.432 through §303.434).
- (d) Due process hearing procedures: ECFSD established written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in Subpart E 3.2 (a) (§303.421(a)), by either adopting:

- (1) The Part C due process hearing procedures under section 639 of the Act that:
 - Meet the requirements in Subpart E 8.1 through E 8.4 (§303.435 through §303.438); and
 - Provide a means of filing a due process complaint regarding any matter listed in Subpart E 3.2 (a) (§303.421(a)).

- (e) Status of a child during the pendency of a due process complaint:
- (1) During the pendency of any proceeding involving a due process complaint under Subpart E 5.1 (d) of this section, unless the ECFSD 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 consented to by the parents.
 - (2) If the due process complaint under Subpart E 5.1 (d) of this section involves an application for initial services under Part C of the Act, the child must receive those services not in dispute.

(Approved by Office of Management and Budget under control number 1820-0678 and 1820-NEW)

(Authority: 20 U.S.C. 1415(e), 1415(f)(1)(A), 1415(f)(3)(A)–(D), 1439)

E 6 Mediation

E 6.1 Mediation (§303.431)

(a) General.

Montana's ECFSD ensures procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

(b) Requirements:

The procedures must meet the following requirements:

- (1) The procedures ensure the mediation process:
 - Is voluntary on the part of the parties;
 - Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and
 - Is conducted by a contracted and impartial mediator who is trained in effective mediation techniques.
- (2) Contracted mediators:
 - The State maintains a list of individuals who are contracted mediators and knowledgeable in laws and regulations relating to the provision of early intervention services.
 - The ECFSD selects mediators on a random, rotational, or other impartial basis.
- (3) ECFSD will bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section.
- (4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location convenient to the parties to the dispute.
- (5) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement setting forth the resolution and that:
 - All discussions occurring during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - Is signed by both the parent and a representative of the EIS provider who has the authority to bind such agency.
- (6) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States.

- (7) Discussions occurring during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.
- (c) Impartiality of mediator
- (1) An individual who serves as a mediator under this part:
 - May not be an employee of ECFSD or an EIS provider involved in the provision of early intervention services or other services to the child; and
 - Must not have a personal or professional interest conflicting with the person's objectivity.
 - (2) A person who otherwise qualifies as a mediator is not an employee of ECFSD or an EIS provider solely because he or she is paid by the agency or provider to serve as a mediator.
- (d) Meeting to encourage mediation.

Montana's ECFSD established procedures to offer to parents and EIS agencies choosing not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:

- (1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center, or community parent resource center in the State established under section 671 or 672 of the Act; and
- (2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(Approved by Office of Management and Budget under control number 1820-NEW)
 (Authority: 20 U.S.C. 1415(e), 1439(a)(8))

E 7 State Complaint Procedures

E7.1 Adoption of State complaint procedures (§303.432)

(a) General.

Montana's ECFSD established written policies and procedures for:

- (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, meeting the requirements in Subpart E 7.3 (§303.4340) by providing for the filing of a complaint with the ECFSD; and
- (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, and other appropriate entities, the State procedures under Subpart E 7.1 through E 7.3 (§303.432 through §303.434).

(b) Remedies for denial of appropriate services.

In resolving a complaint in which the ECFSD found a failure to provide appropriate services, the ECFSD, pursuant to its general supervisory authority under Part C of the Act, will address:

- (1) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and
- (2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

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

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

E 7.2 Minimum State complaint procedures (§303.433)

(a) Time limit; minimum procedures.

Montana's ECFSD established complaint procedures with a time limit of 60 days after a complaint is filed under Subpart E 7.3 (§303.434) to:

- (1) Carry out an independent investigation, if the ECFSD determines an investigation is necessary;
- (2) Give the complainant opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- (3) Provide the public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum:
 - At the discretion of the ECFSD, a proposal to resolve the complaint; and
 - An opportunity for a parent who has filed a complaint and the ECFSD, public agency, or EIS provider to voluntarily engage in mediation, consistent with Subpart E 5.1 (b) and Subpart E 6 (§303.430(b) and §303.431);
- (4) Review all relevant information and make an independent determination as to whether the public agency, or EIS provider is violating a requirement of Part C of the Act or of this part; and
- (5) Issue a written decision to the complainant addressing each allegation in the complaint and contains:
 - Findings of fact and conclusions; and
 - The reasons for ECFSD's final decision.

(b) Time extension; final decision; implementation.

The ECFSD's procedures described in paragraph (a) of this section also will:

- (1) Permit an extension of the time limit under paragraph (a) of this section only if:
 - Exceptional circumstances exist with respect to a complaint; or
 - The parent (or individual or organization) and, if mediation is available to the individual or organization under State procedures, and ECFSD, public agency or EIS provider involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section; and
- (2) Include procedures for effective implementation of ECFSD's final decision, if needed, including:
 - Technical assistance activities;
 - Negotiations; and
 - Corrective actions to achieve compliance.

(c) Complaints filed under this section and due process hearings under Subpart E 5.1 (d) (§303.430(d)):

(1) If a written complaint is received is also the subject of a due process hearing under Subpart E 5.1 (d) (§303.430(d)) or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint being addressed in the due process hearing until the conclusion of the hearing.

However, any issue in the complaint not a part of the due process hearing must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue raised in a complaint filed under this section has previously been

decided in a due process hearing involving the same parties:

- The due process hearing decision is binding on that issue; and
- ECFSD must inform the complainant to that effect.

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

(Approved by Office of Management and Budget under control number 1820-NEW)
(Authority: 20 U.S.C. 1439(a)(1))

E 7.3 Filing a complaint (§303.434)

(a) An organization or individual may file a signed written complaint under the procedures described in Subpart E 7.1 and E 7.2 (§303.432 and §303.433).

(b) The complaint must include:

- (1) A statement that ECFSD, public agency, or EIS provider has violated a requirement of Part C of the Act;
- (2) The facts on which the statement is based;
- (3) The signature and contact information for the complainant; and
- (4) If alleging violations with respect to a specific child:
 - The name and address of the residence of the child;
 - The name of the EIS provider serving the child;
 - A description of the nature of the problem of the child, including facts relating to the problem; and
 - 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 occurred not more than one year prior to the date that the complaint is received in accordance with Subpart E 7.1 (§303.432).

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

(Approved by Office of Management and Budget under control number 1820-NEW)
(Authority: 20 U.S.C. 1439(a)(1))

E 8 State Part C Due Process Hearing Procedures under Section 639 of the Act

Montana chose to adopt the Part C due process procedures under Section 639 of the Act and consistent with Subpart E 8.1 through E 8.4 (§303.435 through 303.438).

E 8.1 Appointment of an impartial due process hearing officer (§303.435)

(a) Qualifications and duties.

Whenever a due process complaint is received under Subpart E 5.1 (d)

(§303.430(d)), a due process hearing officer must be appointed to implement the complaint resolution process in this subpart. The person must:

- (1) Have knowledge about the provisions of this part and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and
- (2) Perform the following duties:
 - Listen to the presentation of relevant viewpoints about the due process complaint.
 - Examine all information relevant to the issues.
 - Seek to reach a timely resolution of the due process complaint.
 - Provide a record of the proceedings, including a written decision.

- (b) Definition of impartial:
- (1) Impartial means the due process hearing officer appointed to implement the due process hearing under this part:
- Is not an employee of ECFSD or an EIS provider involved in the provision of early intervention services or care of the child; and
 - Does not have a personal or professional interest conflicting with his or her objectivity in implementing the process.
- (2) A person who otherwise qualifies under Subpart E 8.1 (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this part.

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

E 8.2 Parental rights in due process hearing proceedings (§303.436)

(a) General.

The ECFSD will ensure the parents of a child referred to Part C are afforded the rights in paragraph (b) of this section in the due process hearing carried out under Subpart E 5.1 (d) (§303.430(d)).

(b) Rights.

Any parent involved in a due process hearing has the right to:

- (1) 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;
- (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
- (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
- (4) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
- (5) Receive a written copy of the findings of fact and decisions at no cost to the parent.

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

E 8.3 Convenience of hearings and timelines (§303.437)

- (a) Any due process hearing conducted under this subpart must be carried out at a time and place reasonably convenient to the parents.
- (b) ECFSD must ensure, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required under this subpart 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 paragraph (b) of this section at the request of either party.

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

E 8.4 Civil action (§303.438)

Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in State or Federal court under section 639(a)(1) of the Act.

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

Subpart F – Use of Funds and Payor of Last Resort

General
F 1 Use of funds, payor of last resort, and system of payments (§303.500)
F 1.1 Statewide system
Montana's statewide system includes written policies and procedures meeting the requirements of the: (a) Use of funds provisions in Subpart F.2. (§303.501); and (b) Payor of last resort provisions in Subpart F 3 through F 6 (§303.510 through §303.521) regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of the Act within the State.
F 1.2 System of Payments
Montana established, consistent with Subpart A - §303.13(a)(3) and Subpart C 4 (§303.203(b)), Montana Part C System of Payments for early intervention services under Part C of the Act required to be paid under Federal, State, local, or private programs of insurance or benefits for which the infant or toddler with a disability or the child's family is enrolled, that meets the requirements of Subpart F 5 through F 6 (§303.520 and §303.521). (Authority: 20 U.S.C. 1432(4)(B), 1435(a) (10)-(12), 1437(b), 1438, 1439(a), 1440)
Use of Funds
F 2 Permissive use of funds by Montana's ECFSD (§303.501)
Consistent with Subpart F 5 through F 6 (§303.120 through §303.122) and Subpart C 14 through C 14.6 (§303.220 through 303.226), Montana's ECFSD utilizes Part C funds for activities or expenses reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities including funds:
F 2.1 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 F 3 - §303.510 through F 6 - §303.521);
F 2.2 To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available;
F 2.3 Part C and FAPE for children from their third birthday on.
(a) Montana does not use Part C funds for the provision of FAPE to children with disabilities from their third birthday to the beginning of the following school year. (b) Montana did not exercise the option to continue services to children beyond the age of three years.
F 2.4 Montana does not provide services under Subpart C 5 (§303.204) for at-risk infants and toddlers, as defined in Subpart A - §303.5, but funds are used to strengthen the Statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing links 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 under Subpart F 2.4 (a) of this section; and
 - (c) Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under Part C.
- (Authority: 20 U.S.C. 1435(a) (1012), 1437(b), 1438)

Payor of last resort – General Provisions

F 3 Payor of last resort (§303.510)

F 3.1 Non-substitution of funds

Except as provided in Subpart F 3.2 of this section, funds under Part C will not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of Part C of the Act. Therefore, funds under Part C will be used only for early intervention services 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 Subpart F 5 and F 6 - §303.520 and §303.521).

F 3.2 Interim payments--reimbursement

If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, funds under Part C may be used to pay the provider of services (for services and functions authorized under this part, including health services, as defined in Subpart A - §303.16 but not medical services), functions of the Child Find system described in Subpart B 6 through B 8 (§303.115 through §303.117) and Subpart D 2 through D 6.1 (§303.301 through §303.310- Montana is not addressing screening at this time §303.320), and evaluations and assessments in Subpart D 6.2 and D 6.4 (§303.321), pending reimbursement from the agency or entity with ultimate responsibility for the payment.

F 3.3 Non-reduction of benefits

Montana's ECFSD will not reduce medical or other assistance available in the State or to alter eligibility under Title V of the Social Security Act, 42 U.S.C. 701, et seq. (SSA) (relating to maternal and child health) or Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the Act. (Authority: 20 U.S.C. 1435(a)(10)(B), 1437(a)(2), 1440(a), 1440(c))

F 4 Methods to ensure the provision of, and financial responsibility for, Part C services (§303.511)

F 4.1 General.

Montana's ECFSD ensures it has in place methods for State interagency coordination. Under these methods, the Director of the DPHHS ensures the interagency agreement or other method for interagency coordination is in effect between each State public agency and Montana's ECFSD to ensure:

- (a) The provision of, and establishing financial responsibility for, early intervention services provided under Part C; and
- (b) Such services are consistent with the requirement in section 635 of the Act and the Montana's application under section 637 of the Act, including the provision of such services during the pendency of any dispute between State agencies.

F 4.2 The methods in Subpart F 4.1 of this section meet all requirements in this section and be set forth in one of the following:

Signed interagency and intra-agency agreements between respective agency officials clearly identify the financial and service provision responsibilities of each agency (or entity within the agency).

F 4.3 Procedures for resolving disputes

Montana's ECFSD assures it has entered into formal interagency agreements with the other State-level agencies involved in Montana's early intervention. The agreement defines the financial responsibility of each agency for paying for early intervention services. The agreement includes procedures for timely resolution of intra- and interagency disputes about early intervention services and/or payments. The Agreement permits agencies to resolve internal disputes in a timely manner, based on the agency procedures included in the agreement and include the process which ECFSD will follow in achieving resolution of intra-agency disputes if the agency is unable to resolve its own disputes. Additionally, the agreement includes additional components necessary to ensure effective cooperation and coordination among all agencies involved in early intervention services.

- (a) ECFSD is responsible for resolving individual disputes about services and/or payments for a given service or disputes about other matters related to the State's early intervention program, in accordance with the procedures in Subpart F 4.3 (§303.511(c)) of the Part C regulations.
- (b) In the case of intra-agency disputes, the matter shall be resolved using the agency's internal procedures, so long as the agency acts within ten working days to resolve the matter.
- (c) In the case a given agency is unable to resolve its own internal disputes in a timely manner, the ECFSD shall, within five working days, refer the matter to the Early Intervention Oversight Committee (EIOC) for administrative review*. The EIOC shall, within ten working days from the receipt of the dispute, render a determination to the ECFSD. ECFSD will render the determination to the agency and, as lead agency for Part C, implement the decision. If an agency rejects the determination of the EIOC, that agency may pursue resolution of the dispute through the Montana Uniform Arbitration Act, codified as Title 27, Chapter 5, Montana Codes Annotated. An arbitration judge will render a final, binding decision on the agencies involved. [*To the extent necessary to ensure compliance with the action taken in F 4.3 (b), the ECFSD will refer any dispute to the EIOC, made up of the Director of the Department of Public Health and Human Services and the Superintendent of Public Instruction, OPI, for a determination.]

- (d) In the case where two or more agencies are unable to resolve disputes within ten working days, the lead agency shall, within five working days, refer the matter to the EIOC for administrative review. The EIOC shall, within ten working days, render a determination to ECFSD. ECFSD will render the determination to the appropriate agencies and, as lead agency for Part C, implement the decision. If any of the agencies reject the determination of the EIOC, that agency may pursue resolution of the dispute through the Montana Uniform Arbitration Act, codified at Title 27, Chapter 5, Montana Codes Annotated. An arbitration judge will render a final, binding decision on the agencies involved.
- (e) During the pendency of disputes regarding the payment or costs for services the ECFSD, as the agency assigned to designation of financial responsibility, will, depending on the nature of the dispute, assign financial responsibility to an agency subject to the provisions of Subpart F 4 (§303.511 (c)) or pay for the services using Part C funds, in accordance with the payor of last resort provisions in Subpart F 3 through F 6 (§303.510 through §303.521).
- (f) If, in resolving the dispute, ECFSD determines the assignment of financial responsibility under Subpart F 4.1 (a) (§303.511) (a) (1)) was inappropriately made, ECFSD will reassign the responsibility to the appropriate agency and make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility as provided in Subpart F 4.1 (§303.511 (a)(1)).
- (g) To the extent necessary to ensure compliance with the action take in Subpart F 4.3 (c) through F 4.3 (f) will:
- (1) Refer the dispute to the EIOC (see Subpart 4.3 (c)) for a determination; and
 - (2) Implement the procedures to ensure services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies or service providers (see F 3.2 - §303.511 (d)).
- (h) In circumstances where Part C funds are used for interim payments to a provider of services pending the resolution of a dispute, the agency or entity found to have ultimate responsibility for the payment will have 30 days from the date of the final resolution of the dispute to reimburse Part C funds to the lead agency.

Payor of last resort & System of Payments – Use of insurance, benefits, Systems of Payments, and fees

F 5 Policies related to use of public benefits or insurance or private insurance to pay for Part C services (§303.520)

F 5.1 Use of public benefits or public insurance to pay for Part C services

- (a) Montana's ECFSD will not use the public benefits or insurance of a child or parent to pay for Part C services unless the State provides written notification, consistent with Subpart F 5.1 (a) (§303.520(a)(3)), to the child's parents, and the State meets the no-cost protections identified in paragraph Subpart F 5.1 (b) (§303.520(a)(3)) of this section.
- (b) With regard to using the public benefits or insurance of a child or parent to pay for Part C services, Montana's EIS agencies:
- (1) Will not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must provide written notification prior to using the public benefits or insurance of a child or parent if the child or parent is already enrolled in such a program;

- (2) Will provide written notification, consistent with Subpart A - §303.7 and Subpart E (a) (4) (§303.420(a)(4)), to use a child's or parent's public benefits or insurance to pay for Part C services if use would:
- Decrease available lifetime coverage or any other insured benefit for the child or parent under that program;
 - Result in the child's parents paying for services otherwise covered by the public benefits or insurance program;
 - Result in any increase in premiums or discontinuation of public benefits or insurance for the child or the child's parents; or
 - Risk loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures.
- (3) If the parent does not provide consent under paragraphs Subpart F 5.1 (b) (2) this section, ECFSD will still make available those Part C services on the IFSP to which the parent has provided consent.
- (c) Prior to using a child's or parent's public benefits or insurance to pay for Part C services, the EIS agency provides **Montana's Part C Informed Consent for the Use of Private Insurance, Montana's Written Notification for the Use of Private Insurance and Public Benefits** and **Montana's Part C System of Payments Policy** along with **Montana's Procedural Safeguards** to the child's parents. Notifications include:
- (1) Parental consent will be obtained under Subpart E 2.14 (§303.414), if that provision applies, before the EIS agency discloses, for billing purposes, a child's personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid). Montana Department of Health and Human Services is the lead agency for Medicaid, and;
 - (2) A statement of the no-cost protection provisions in Subpart F 5.1 (b) (§303.520(a)(2)) and, if the parent does not provide the consent under Subpart F 5(b) (§303.520(a)(2)), the EIS agency must still make available those Part C services on the IFSP for which the parent has provided consent;
 - (3) Parents have the right under Subpart E 2.14 (§303.414), if that provision applies, to withdraw their consent to disclosure of personally identifiable information to the EIS agency and/or State agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time through un-enrollment with the State's Medicaid program; and
 - (4) ECFSD does not require parents to incur any costs as a result of participating in a public benefits or insurance program (specifically, co-payments or deductibles).

F 5.2 Use of private insurance to pay for Part C services

Parents receive Montana's Informed Consent for the Use of Private Insurance, Montana's Part C Informed Consent for the Use of Private Insurance, Montana's Part C System of Payments Policy, and Montana's Part C Procedural Safeguards.

- (a) Private insurance conditions.
- (1) The EIS agencies will not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with Subpart A - §303.7 and Subpart E 3.1 (a) (4) - (§303.420(a)(4)), to use private insurance to pay for Part C services for his or her child or the State meets one of the exceptions in Subpart F 5.2 (b)(2) of this section. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained:
- When the EIS agency seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and
 - Each time consent for services is required under Subpart E 3.1 (a) (3) (§303.420(a)(3)) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.
- (2) ECFSD does not require parents to incur any costs because of participating in a public benefits or insurance program (specifically, co-payments or deductibles).
- (3) Parents will be responsible for the cost of any premiums or any other potential long-term costs, such as the loss of benefits, because of annual or lifetime health insurance coverage caps under the insurance policy.

F 6. System of payments and fees (§303.521)

Parents receive written notice informing them of the State's Dispute Resolution Options (noted in Subpart E.5 through E.8) should they contest any fee or the State's determination via Montana's Part C Procedural Safeguards.

F 6.1 Montana provides the following Part C services at public expense and at no cost to parents:

- (a) Implementing the Child Find requirements (§303.301 through §303.303).
- (b) Evaluations and assessments (Subpart D 6) in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b).
- (c) Service coordination services (as defined in §§303.13(b) (11) and 303.33).
- (d) Administrative and coordinative activities related to:
 - (1) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§303.342 through 303.345; and
 - (2) Implementation of the procedural safeguards in Subpart E of this part and other components of the statewide system of early intervention services in Subpart D of this part (§303.300 through §303.346) and Subpart F (§303.500 through §303.521).
- (e) Early intervention services authorized on the IFSP, including any co-payments or deductibles related to these services.

F6.2 Montana's Part C System of Payments does not charge any fees to parents including sliding fees scale or co-payments in order to receive Part C early intervention services.

F 6.3 Part C services are supported by a variety of funding sources when appropriate. State General Funds, IDEA Federal Funds, Medicaid, and possibly other Federal, State, local or private sources may be used as appropriate for an individual child. These sources may include voluntary use of public benefits or

public insurance (F6.4) and/or private insurance (F6.5).

(a) State General Funds and IDEA Federal Funds are administered by Montana's Part C lead agency, ECFSD, and granted to regional EIS agencies to fund Part C services.

(b) Funds from Medicaid and other Federal, State, local or private sources typically flow directly to the regional Part C service agency or directly to the child and family.

F6.4 Montana's Part C System of Payments allows families to use public benefits or public insurance to pay for Part C services if the condition contained in Subpart F5.1 are met, including no cost for parents.

F6.5 Montana's Part C System of Payments allows families to voluntarily use private insurance to pay for Part C services if the condition contained in Subpart F5.2 are met, including no cost for parents.

F6.6 Montana's Part C System of Payments Policy permits the use of Part C funds or other funds to pay for costs such as the deductibles or co-payments associated with the provision of Part C early intervention services.

F6.7 The IFSP team is responsible for determining the child's and family's needs which result in development of outcomes on the IFSP. The IFSP team reviews various means to achieve the outcomes on the IFSP including services and funding sources for the services in accordance the Part C payor of last resort requirements (F3.1).

F7 Monitoring of Payor of Last Resort and System of Payments.

F7.1 Monitoring of payor of last resort and system of payments occurs through State monitoring and enforcement (B 11, B12, H1).

Subpart G – State Interagency Coordinating Council

G 1 Establishment of Council ([§303.600](#))

Montana's state interagency coordinating council is called the Family Support Services Advisory Council – FSSAC and is consistent with Subpart A - §303.8 and Subpart G 1 ([§303.600](#)).

G 1.1 Montana established the Family Support Services Advisory Council – FSSAC as the State Interagency Coordinating Council (Council) as defined in Subpart A - §303.8.

G 1.2 The FSSAC is appointed by the Governor. The Governor selects members to ensure the membership of the FSSAC reasonably represents the population of the State.

G 1.3 The Governor requires the FSSAC to elect a chairperson for the FSSAC. The FSSAC's bylaws describe the selection process. The bylaws also stipulate designated under Subpart C 2.1 ([§303.201](#)) who may not serve as the chairperson of the FSSAC.

(Authority: 20 U.S.C. 1441(a))

G 2 Composition ([§303.601](#))

G 2.1 The FSSAC membership includes:

(a) Parents:

- (1) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.
- (2) At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged six years or younger.

(b) At least 20 percent of the members must be public or private providers of early intervention services.

(c) At least one member must be from the State legislature.

(d) At least one member must be involved in personnel preparation.

(e) At least one member must:

- (1) Be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and
- (2) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(f) At least one member must:

- (1) Be from the SEA responsible for preschool services to children with disabilities; and
- (2) Have sufficient authority to engage in policy planning and implementation on behalf of the SEA.

(g) At least one member must be from the agency responsible for the State Medicaid and CHIP program.

(h) At least one member must be from a Head Start or Early Head Start agency or program in the State.

(i) At least one member must be from a State agency responsible for child care.

- (j) At least one member must be from the agency responsible for the State regulation of private health insurance.
- (k) At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.
- (l) At least one member must be a representative from the State child welfare agency responsible for foster care.
- (m) At least one member must be from the State agency responsible for children's mental health.
- (n) The Governor may appoint one member to represent more than one program or agency listed in Subpart G 2.1 (c) through (o) of this section.
- (o) The FSSAC may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the State, from the Indian Health Service or the tribe or tribal council.
- (p) No member of the FSSAC may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Authority: 20 U.S.C. 1231d, 1441(b), 1441(f))

G 3 Meetings (§303.602)

G 3.1 The FSSAC meets, at a minimum, on a quarterly basis, and in such places as it determines necessary.

G 3.2 The meetings are:

- (a) Publicly announced sufficiently in advance of the dates they are to be held to ensure 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 FSSAC members and participants. The FSSAC may use funds under this part to pay for those services.

(Authority: 20 U.S.C. 1441(c))

G 4 Use of funds by the FSSAC (§303.603)

G 4.1 Subject to the approval by the Governor, the FSSAC may use Part C funds to:

- (a) Conduct hearings and forums;
- (b) Reimburse members of the FSSAC for reasonable and necessary expenses for attending FSSAC meetings and performing FSSAC duties (including child care for parent representatives);
- (c) Pay compensation to a member of the FSSAC if the member is not employed or must forfeit wages from other employment when performing official FSSAC 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 the Act.

G 4.2 Except as provided in Subpart G 4.1 (b) of this section, FSSAC members must serve without compensation from funds available under Part C of the Act.

(Authority: 20 U.S.C. 1441(d))

G 5 Functions (required duties) of the FSSAC (§303.604)

G 5.1 Advising and assisting the ECFSD (lead agency). The FSSAC will advise

and assist ECFSD in the performance of its responsibilities in section 635(a)(10) of the Act, including:

- (a) Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;
- (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 Subpart B 6 (§303.115) and Subpart D 4 (§303.302), monitoring under Subpart B 11 (§303.120) and Subpart H 1 through H 7, financial responsibility and provision of early intervention services under Subpart C 3 (§303.202) and Subpart F4 (§303.511), and transition under Subpart C 10 (§303.209); and
- (d) Preparation of applications under this part and amendments to those applications.

G 5.2 Advising and assisting on transition

- (a) The FSSAC will advise and assist the Montana Office of Public Instruction (OPI - SEA) and the ECFSD (lead agency) regarding the transition of toddlers with disabilities to preschool and other appropriate services.

G 5.3 Annual reports to the Governor and to the Secretary

- (a) The FSSAC will:
 - (1) Prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under Part C of the Act operated within the State; and
 - (2) Submit the report to the Secretary by a date that the Secretary establishes.
- (b) Each annual report will contain the information required by the Secretary for the year for which the report is made.

(Authority: 20 U.S.C. 1441(e) (1))

Authorized activities by the Council (§303.605)

G 6 The FSSAC may carry out the following activities (§303.604):

G 6.1 Advise and assist the ECFSD (lead agency) and the OPI (SEA) regarding the provision of appropriate services for children with disabilities from birth through age five.

G 6.2 Advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

G 6.3 Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for Children, as described in section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other State interagency early learning initiatives, as appropriate.

(Authority: 20 U.S.C. 1435(a) (10), 1441(e)(2))

Subpart H – Federal and State Monitoring and Enforcement; Reporting and Allocation of Funds

H 1 State monitoring and enforcement (§303.700)

H 1.1 Montana's ECFSD performs the following activities:

- (a) Monitor the implementation of Part C;
- (b) Make determinations annually about the performance of each EIS agency using the categories identified in Subpart H 4 (§303.703(b));
- (c) Enforce this part consistent with Subpart H 4 (§303.704), using appropriate enforcement mechanisms which must include, if applicable, the enforcement mechanisms identified in Subpart H 5.1 [§303.704(a)(1) (technical assistance) and §303.704(a)(2) (imposing conditions on the ECFSD's funding of an EIS agency or, if the ECFSD does not provide Part C funds to the EIS agency, an EIS provider), §303.704(b)(2)(i) (corrective action or improvement plan) and §303.704(b)(2)(iv) (withholding of funds, in whole or in part by the ECFSD), and §303.704(c)(2) (withholding of funds, in whole or in part by the ECFSD)]; and
- (d) Report annually on the performance of the State and of each EIS agency under this part as provided in Subpart H 3 (§303.702).

H 1.2 The primary focus of the Montana's monitoring activities are on:

- (a) Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and
 - (b) Ensuring EIS agencies meet the program requirements under Part C of the Act, with an emphasis on those requirements most closely related to improving early intervention results for infants and toddlers with disabilities.
 - (c) As a part of its responsibilities under Subpart H 1.1 of this section, ECFSD uses quantifiable indicators and such qualitative indicators as needed to adequately measure performance in the priority areas identified in Subpart H 1.2 (d) of this section, and the indicators established by the Secretary for the State performance plans.
 - (d) ECFSD monitors each EIS agency located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as needed to adequately measure performance in those areas:
 - (1) Early intervention services in natural environments.
 - (2) State exercise of general supervision, including child find, effective monitoring, mediation, due process, State complaint, and a system of transition services as defined in section 637(a)(9) of the Act. (See Subpart B 11)
 - (e) In exercising its monitoring responsibilities under Subpart H 1.2 (d) of this section, ECFSD ensures when it identifies noncompliance with the requirements of Part C by EIS agencies and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance.
- (Approved by Office of Management and Budget under control number 1820-0578)
(Authority: 20 U.S.C. 1416(a), 1442)

H 2 State Performance Plan and data collection (§303.701)

H 2.1 General.

Montana has in place a performance plan meeting the requirements described in section 616 of the Act; is approved by the Secretary; and includes an evaluation of

the State's efforts to implement the requirements and purposes of Part C of the Act, a description of how the State will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in subpart H 1.2 (d) - (§303.700(d)).

H 2.2 Review of State Performance Plan

ECFSD and the FSSAC formally review its State Performance Plan annually and when needed, submit any amendments/modifications to the Secretary.

H 2.3 Data collection

- (1) ECFSD collects valid and reliable information needed to report annually to the Secretary under Subpart H 3.2 (b) (§303.702(b)(2)) on the indicators established by the Secretary for the States performance plan.
- (2) ECFSD collects all Part C data needed annually from each EIS agency (State's data management system). ECFSD collects required data from all EIS agencies in the State and does not sample only some EIS agencies for Federal reporting.

H 3 State use of targets and reporting (§303.702)

H 3.1 General.

The ECFSD uses the targets established in the State's Performance Plan under subpart H 3.1 (§303.701) and the priority areas described in Subpart H 1.2 (d) (§303.700(d)) to analyze the performance of each EIS agency in implementing Part C of the Act.

H 3.2 Public reporting and privacy

(a) Public report.

(1) ECFSD:

- Reports annually to the public on the performance of each EIS agency located in the State on the targets in the State's performance plan as soon as practicable but no later than 120 days following Montana's submission of its annual performance report to the Secretary under Subpart H 3.2 (b)(2) of this section; and
- Makes the State's performance plan under Subpart H 2.1 (§303.701(a)), annual performance reports under Subpart H 3.1 (b) of this section, and the State's annual reports on the performance of each EIS agency under Subpart H 3.1 (b) of this section available through public means, including by posting on the ECFSD website and distribution to EIS agencies.
- ECFSD does not use sampling procedures to collect this data. The ECFSD collects this data from each EIS agency annually (State's data management system).

(b) State Performance Report

ECFSD reports annually to the Secretary on the performance of the State under the State's Performance Plan.

(c) Privacy

ECFSD 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.

(Approved by Office of Management and Budget under control number 1820-0578)

(Authority: 20 U.S.C. 1416(b)(2)(B) -(C), 1442)

H 4 Montana's review and determination regarding EIS agency's performance

H 4.1 Reviews

ECFSD annually reviews each EIS agency's data collected for the State's performance report submitted pursuant to Subpart H 3.2 (§303.702(b)(2)).

H 4.2 Determinations

(a) General.

Based on the information provided by each EIS agency for the State's annual performance report, information obtained through any monitoring visits, and any data collected in the State's data management system, the ECFSD determines if the EIS agency:

- (1) Meets the requirements and purposes of Part C of the Act;
- (2) Needs assistance in implementing the requirements of Part C of the Act;
- (3) Needs intervention in implementing the requirements of Part C of the Act; or
- (4) Needs substantial intervention in implementing the requirements of Part C of the Act.

(b) Notice and opportunity for a hearing.

- (1) For determinations made under Subpart H 4.2 (a) of this section, ECFSD provides reasonable notice and an opportunity for a hearing on those determinations.
- (2) The hearing described in Subpart H 4.2 (b) (1) of this section consists of an opportunity to meet with the Part C Coordinator and any other ECFSD staff deemed necessary to demonstrate why ECFSD should not make the determination described in Subpart H 4.2 (a) of this section.

H 5 Montana enforcement with EIS agencies

If ECFSD determines an EIS agency needs one of the following enforcements in Subpart H 5.1 through H 6. (If the Secretary makes a determination concerning ECFSD directly related to one or more EIS agencies, ECFSD can determine the EIS agency needs one of the following enforcements in Subpart H 5.1 through H 6).

H 5.1 Needs assistance

If ECFSD determines for two consecutive years, an EIS agency needs assistance under Subpart H 4 in implementing the requirements of Part C of the Act, ECFSD takes one or more of the following actions:

(a) Advises the EIS agency of available sources of technical assistance to help the EIS agency address the areas in which the EIS agency needs assistance, which may include assistance from ECFSD, technical assistance providers approved by ECFSD, and other State or federally funded agencies, and requires the EIS agency to work with appropriate entities. This technical assistance may include:

- (1) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the areas of concern within a specified period;
- (2) 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;
- (3) Designating and using administrators, service coordinators, service providers, and other personnel from the EIS agency to provide advice, technical assistance, and support; and
- (4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, and national centers of technical assistance, and private providers of scientifically based technical assistance.

(b) Identifies the EIS agency as a high-risk program and imposes special conditions on the EIS agency under their Part C contract.

H 5.2 Needs intervention

If ECFSD determines, for three or more consecutive years, an EIS agency needs intervention under Subpart H 4 in implementing the requirements of Part C of the Act, the following apply:

- (a) ECFSD may take any of the actions described in Subpart H 5.1 of this section.
- (b) ECFSD takes one or more of the following actions:
 - (1) Requires the EIS agency to prepare a corrective action plan or improvement plan if the Secretary determines the State should be able to correct the problem within one year.
 - (2) Requires the EIS agency to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended (GEPA), 20 U.S.C. 1234f, if the Secretary has reason to believe the State cannot correct the problem within one year.
 - (3) Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
 - (4) Withholds, in whole or in part, any further payments to the EIS agency under Part C of the Act.
 - (5) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

H 5.3 Needs substantial intervention

Notwithstanding Subpart H 5.1 or H 5.2 of this section, at any time ECFSD determines an EIS agency needs substantial intervention in implementing the requirements of Part C of the Act or there is a substantial failure to comply with any requirement under Part C of the Act by the EIS agency in the State, the ECFSD 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 EIS agency under Part C of the Act.
- (c) Refers the case to the Director of the DPHHS and the Director may assign the case to the Director or Administrator of ECFSD.
- (d) Refers the matter for appropriate enforcement action within Montana's judicial system.

H 6 Withholding funds

H 6.1 Opportunity for hearing

Prior to withholding any funds under Part C of the Act, ECFSD provides reasonable notice and an opportunity for a hearing to the EIS agency involved.

H 6.2 Suspension

Pending the outcome of any hearing to withhold payments under Subpart H 6.1 of this section, ECFSD may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under Part C of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part C of the Act should not be suspended.

H 6.3 Nature of withholding

(a) Limitation:

If ECFSD determines it is appropriate to withhold further payments under section 616(e) (2) or (e) (3) of the Act, ECFSD may determine:

- (1) That such withholding will be limited to programs or projects, or portions of programs or projects, that affected the ECFSD's determination under Subpart H 4.2 and H 5; or
- (2) That ECFSD must not make further payments of funds under Part C of the Act to the specified EIS agency.

(b) Withholding until rectified:

Until the ECFSD is satisfied the condition that caused the initial withholding has been substantially rectified, payments to the EIS agency under Part C of the Act must be withheld in whole or in part.

H 7 Public attention (§303.706)

H 7.1 For Secretary determinations

If Montana receives notice the Secretary is proposing to take or is taking an enforcement action pursuant to Subpart H 5 (§303.704), the State will, 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 the Act and Subpart H 5 (§303.704) of the regulations to the attention of the public within the State, including by posting the notice on the website of the lead agency and distributing the notice to the media and to EIS agencies.

(Authority: 20 U.S.C. 1416(e)(7), 1442)

H 7.2 For ECFSD determinations

If ECFSD is proposing to take or is taking an enforcement action pursuant to Subpart H 5 (§303.704), ECFSD will, 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 the Act and Subpart H 5 (§303.704) of the regulations to the attention of the public within the State, including by posting the notice on the website of ECFSD and distributing the notice to the media and to EIS agencies.

Reports-Program Information

H 8 Data requirements – General. (§303.720)

H 8.1 ECFSD will annually report to the Secretary and to the public on the information required by section 618 of the Act at the times specified by the Secretary.

H 8.2 ECFSD will submit the report to the Secretary in the manner prescribed by the Secretary.

(Approved by Office of Management and Budget under control number 1820-0557)
(Authority: 20 U.S.C. 1418, 1435(a) (14), 1442)

H 9 Annual report of children served-report requirement (§303.721)

H 9.1 For the purposes of the annual report required by section 618 of the Act and §303.720, ECFSD will implement procedures to count and report the number of infants and toddlers receiving early intervention services on any date between October 1 and December 1 of each year. The report will include:

- (a) The number and percentage of infants and toddlers with disabilities in the State, by race, gender, and ethnicity, who are receiving early intervention services (and include in this number any children reported to it by tribes, tribal organizations, and consortia under §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; and
- (c) The number and percentage of at-risk infants and toddlers (as defined in section 632(1) of the Act), by race and ethnicity, who are receiving early intervention services under Part C of the Act.
- (d) Montana did not choose to provide Part C services to children older than three years of age.
- (e) The number of due process complaints filed under section 615 of the Act, the number of hearings conducted, and the number of mediations held, and the number of settlement agreements reached through such mediations.

(Approved by Office of Management and Budget under control number 1820-0557)
(Authority: 20 U.S.C. 1418(a)(1)(B), (C), (F), (G), and (H), 1435(a)(14), 1435(c)(3), 1442)

H 10 Data reporting (§303.722)

H 10.1 Protection of identifiable data

The data described in section 618(a) of the Act and in Subpart H 9 (§303.721) will be publicly reported by ECFSD in a manner that does not result in disclosure of data identifiable to individual children.

H 10.2 Sampling

ECFSD does not use sampling for obtaining data for the annual report of children served (Subpart H 9. - (§303.720)).

H 11 Annual report of children served certification (§303.723)

ECFSD will include in its report a certification signed by an authorized official of the agency the information provided under Subpart H 9. (§303.721) is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services. The child count occurs on November 15th each year (If November 15th falls on a Saturday, data will be collected on Friday November 14th, and if November 15th falls on a Sunday, data will be collected on Monday November 16th.

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(Authority: 20 U.S.C. 1418(a)(3), 1435(a) (14), 1442)

H 12 Annual report of children served-other responsibilities of the lead agency (§303.724)

In addition to meeting the requirements of Subpart H 9 through H 11 (§§303.721 through 303.723), ECFSD will conduct Montana's child count in collaboration with EIS agencies to complete its statewide child count. ECFSD has (and will revise when needed):

H 12.1 Established procedures to be used by EIS agencies in counting the number of children with disabilities receiving early intervention services (State's data management system);

H 12.2 Established dates by which those EIS agencies must report to ECFSD (lead agency) to ensure that the State complies with Subpart H 9.1 (§303.721(a)) (State's data management system);

H 12.3 Obtain certification each year from each EIS agency that an unduplicated and accurate count has been made (State's data management system);

H 12.4 Aggregate the data from the count obtained from each EIS agency and prepare the report required under Subpart H 9 through H 11 (§§303.721 through 303.723); and

H 12.5 Ensure that documentation is maintained to enable the State and the Secretary to audit the accuracy of the count.

(Approved by Office of Management and Budget under control number 1820-0557)

(Authority: 20 U.S.C. 1418(a), 1435(a)(14), 1442)