

WA STATE EARLY SUPPORT FOR INFANTS AND TODDLERS (ESIT) PROGRAM POLICIES AND PROCEDURES



Washington State Department of
CHILDREN, YOUTH & FAMILIES

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ESIT POLICIES AND PROCEDURES

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POLICIES AND PROCEDURES

The Department of Children, Youth and Families (DCYF) is designated by the governor (34 CFR §§303.120 and 303.201) and the legislature (RCW 43.216.020.-g) to serve as the state lead agency (SLA) for carrying out the provisions of the early intervention section of the Individuals with Disabilities Education Act (IDEA), and to receive funds for federal fiscal year (FFY) 2010 and beyond. DCYF and the Washington State Interagency Coordinating Council (SICC) continue to coordinate the implementation of IDEA early intervention services (EIS) within all divisions of DCYF and the other participating state agencies. On August 4, 1989, a Centennial Accord was executed between the Federally Recognized Indian Tribes of Washington and the state of Washington, through the governor. To better achieve mutual goals through an improved relationship between governments, this Accord provides a framework for implementation procedures to assure execution of that government-to-government relationship. The SLA and the tribal nations agreed upon communication and consultation protocols in September 2010, in accordance with the Centennial Accord and New Millennium Agreement. We follow both these protocols and the Accord to ensure consistent recognition of tribal sovereignty and ensure execution of government-to-government relationships. The SLA coordinates, collaborates, and contracts with all interested tribes for IDEA EIS.

1.A Authority

The state authority for implementing Part C of IDEA is chapter 43.216 RCW, Department of Children, Youth and Families, and chapter 70.195 RCW, Early Intervention Services – Birth to Six, and the Washington Administrative Code (Chapter 110-400 WAC). The federal authority is 20 U.S.C. 1431-1443 and the Part C of IDEA regulations in 34 CFR Part 303.

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1.B Purpose

The primary purpose of these policies and procedures is to ensure the implementation of chapter 43.216 RCW, chapter 70.195 RCW, chapter 100-400 WAC, and conformity with the purposes and requirements of Part C of IDEA.

1.C Applicability

1.C.1 The policies and procedures contained herein are binding upon all agencies and practitioners involved in the provision of Early Intervention Services (EIS) to infants and toddlers, with disabilities, and their families under Part C of IDEA, regardless of whether these entities receive funds under Part C of IDEA, including:

- A. DCYF, in conjunction with the Office of Superintendent of Public Instruction (OSPI), Health Care Authority (HCA), the Department of Social and Health Services (DSHS), Health (DOH), and Services for the Blind;
- B. County Lead Agencies (CLAs) and Early Intervention Provider Agencies (EIPAs) receiving funds through DCYF to provide EIS; and
- C. EIS providers identified in IFSPs to provide EIS to meet the unique needs of children and their families.

1.C.2 These policies and procedures apply to all children referred to the ESIT program, including eligible infants and toddlers with disabilities and their families.

1.D Assurances

1.D.1 Early intervention services (EIS) The state has adopted a policy that appropriate EIS, as defined in 34 CFR §303.13, are available to all infants and toddlers with disabilities in the state and their families, including:

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

1.D.2 Minimum components of a statewide system of EIS: The state has in effect a statewide system of EIS that meets the requirements of section 635 of IDEA, including policies and procedures that address, at a minimum, the components required in 34 CFR §§303.111 through 303.126.

1.D.3 State conformance: The state ensures that any state rules, regulations, policies and procedures relating to 34 CFR Part303 conform to the purposes and requirements of 34 CFR Part 303.

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- 1.D.4 Scientifically-based research: The state has a policy in effect that ensures appropriate EIS are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including:
- A. Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state; and
 - B. Infants and toddlers with disabilities who are homeless children and their families.
- 1.D.5 Timely evaluation
- A. The statewide system ensures the performance of:
 - 1. A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the state; and
 - 2. 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.
 - a. The evaluation and family-directed identification required in paragraph 9.A(2) & (3) below shall meet the requirements of 34 CFR §303.321.
- 1.D.6 Individualized family service plan (IFSP): The statewide system ensures that, for each infant or toddler with a disability and his or her family, an IFSP, as defined in 34 CFR §303.20, is developed and implemented that meets the requirements of 34 CFR §§303.340 through 303.345 and that includes service coordination services, as defined in 34 CFR §303.34
- 1.D.6 Individualized family service plan (IFSP): The statewide system ensures that, for each infant or toddler with a disability and his or her family, an IFSP, as defined in 34 CFR §303.20, is developed and implemented that meets the requirements of 34 CFR §§303.340 through 303.345 and that includes service coordination services, as defined in 34 CFR §303.34.
- 1.D.7 Child find: The statewide system includes a comprehensive child find system that meets the requirements in 34 CFR §§303.302 and 303.303.
- 1.D.8 Public awareness: The statewide system includes a public awareness program that:
- A. Focuses on the early identification of infants and toddlers with disabilities; and
 - B. Provides information to parents of infants and toddlers through primary referral sources in accordance with 34 CFR §303.301.
- 1.D.9 Central directory: The statewide system includes a central directory that is accessible to the general public (i.e., through the SLA's website and other appropriate means) and includes accurate, up-to-date information about:
- A. Public and private EIS, resources, and experts available in the state;
 - B. Professional and other groups (including parent support and training and information centers, such as those funded under IDEA) that provide assistance to infants and toddlers with disabilities eligible under Part C of IDEA and their families; and

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- C. Research and demonstration projects being conducted in the state relating to infants and toddlers with disabilities.

1.D.10 Personnel development: The statewide system includes a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of EIS available in the state. The state's comprehensive system of personnel development includes:

- A. Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;
- B. Promoting the preparation of EIS providers who are fully and appropriately qualified to provide EIS under Part C of IDEA; and
- C. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an EIS program under Part C of IDEA to a preschool program under section 619 of IDEA, Head Start, Early Head Start, an elementary school program under Part B of IDEA, or another appropriate program.

May include:

- A. Training personnel to work in rural and inner-city areas;
- B. Training personnel in the emotional and social development of young Original Date: April 18, 2013 | Revised Date: June 29, 2016; July 1, 2021 Family Support Division | Approved for distribution by DCYF children;
- C. Training personnel to support families in Participating fully in the development and implementation of the child's IFSP; and
- D. Training personnel who provide services under Part C of IDEA, using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable.

1.D.11 Comprehensive system of professional development: The statewide system includes policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of Part C of IDEA are appropriately and adequately prepared and trained. These policies and procedures provide for the establishment and maintenance of qualification standards that are consistent with any state-approved or state recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing EIS. Nothing in Part C of IDEA may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with state law, regulation, or written policy, to assist in the provision of EIS under Part C of IDEA to infants and toddlers with disabilities.

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1.D.12 Single line of responsibility: The statewide system includes a single line of responsibility in a SLA designated or established by the governor that is responsible for the following:

- A. The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of IDEA; and
- B. The monitoring of programs and activities used by the state to carry out Part C of IDEA (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS providers that are receiving assistance under Part C of IDEA), to ensure that the state complies with Part C of IDEA, including:
 - 1. Monitoring agencies, institutions, organizations, and EIS providers used by the state to carry out Part C of IDEA;
 - 2. Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers, under Part C of IDEA and 34 CFR Part 303;
 - 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 1.D.12(A) through (B)(1-5) of this section, consistent with 34 CFR §§303.700 through 303.707, and any other activities required by the state under those sections.
- A. Consistent with subpart F of 34 CFR Part 303:
 - 1. The identification and coordination of all available resources for EIS within the state, including those from federal, state, local, and private sources;
 - 2. The assignment of financial responsibility;
 - 3. The development of procedures to ensure that EIS are provided to infants and toddlers with disabilities and their families under Part C of IDEA in a timely manner, pending the resolution of any the resolution of intra- and interagency disputes; and
 - 4. The entry into formal interagency agreements or other written methods of establishing financial responsibility that define the financial responsibility of each agency for paying for EIS (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 34 CFR Part 303disputes among public agencies or EIS providers;

1.D.13 Contracting: The statewide system includes a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide EIS in the state, consistent with the provisions of Part C of IDEA and 34 CFR Part 303, including the contents of the application and the conditions of the contract or other arrangements. The policy:

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- A. Includes a requirement that all EIS shall meet state standards and be consistent with the provisions of Part C of IDEA; and
 - B. Is consistent with the Education Department General Administrative Regulations in 34 CFR §80, as amended.
- 1.D.14 Timely reimbursement of funds: The statewide system includes procedures for securing the timely reimbursement of funds used under Part C of IDEA, in accordance with subpart F of 34 CFR Part 303.
- 1.D.15 Procedural safeguards: The statewide system includes procedural safeguards that meet the requirements of subpart E of 34 CFR Part 303.
- 1.D.16 Data collection: The statewide system includes a system for compiling and reporting timely and accurate data that meets the requirements of 34 CFR §§303.700 through 303.702, 303.720 through 303.724, and the ESIT Data Collection and Reporting Policy and Procedures. The data system includes a description of the process that the state uses, or will use, to compile data on infants or toddlers with disabilities receiving EIS under Part C of IDEA, including a description of the state's sampling methods, if sampling is used, for reporting the data required by the secretary, under sections 616 and 618 of IDEA, 34 CFR §§303.700 through 303.707, and 303.720 through 303.724.
- 1.D.17 State Interagency Coordinating Council (SICC): The statewide system includes a SICC that meets the requirements of subpart G of 34 CFR Part 303.
- 1.D.18 Natural environments: The statewide system includes policies and procedures to ensure, consistent with 34 CFR §§303.13(a)(8) (EIS), 303.26 (natural environments), and 303.344(d)(1)(ii) (content of an IFSP), that EIS for infants and toddlers with disabilities are provided:
- A. To the maximum extent appropriate, in natural environments; and
 - B. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP team, only when EIS cannot be achieved satisfactorily in a natural environment.
- 1.D.19 Use of funds: The statewide system ensures that federal funds made available to the state under section 643 of IDEA will be expended in accordance with the provisions of 34 CFR Part 303, including §§303.500 and 303.501.
- 1.D.20 Payor of last resort and methods of financial responsibility: The statewide system will comply with the requirements in subpart F of 34 CFR §§303.510 and 303.511.
- 1.D.21 Control of Part C of IDEA funds and assets: The statewide system ensures that:
- A. The control of funds, provided under 34 CFR Part 303, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in 34 CFR Part 303; and

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B. A public agency will administer the funds and property.

1.D.22 Reporting and records requirements: The statewide system ensures that it will:

- A. Make reports in the form and containing the information that 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 34 CFR Part 303, the correctness and verification of reports, and the proper disbursement of funds provided under 34 CFR Part 303.

1.D.23 No comingling or supplanting: The statewide system ensures that:

- A. Federal funds made available to the state under section 643 of IDEA:
 - 1. Will not be commingled with state funds; and
 - 2. Will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.
- B. To meet the requirement in paragraph 1.D.23(A)(2) above, the total amount of state and local funds budgeted for expenditures in the current fiscal year, for EIS for children eligible under Part C of IDEA and their families, shall be at least equal to the total amount of state and local funds actually expended for EIS for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for the following:
 - 1. A decrease in the number of infants and toddlers who are eligible to receive EIS under Part C of IDEA; 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 paragraph (C)(2) below, a SLA may not charge indirect costs to its Part C of IDEA grant;
 - 2. If approved by the SLA's cognizant federal agency or by the secretary, the SLA shall charge indirect costs through either:
 - a. A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or
 - b. A cost allocation plan that meets the non-supplanting requirements in paragraph 1.D.23 above and 34 CFR Part 76, as amended, of the Education Department General Administration Regulations (EDGAR).
 - 3. If charging indirect costs under paragraph (C)(2)(a) and (b) above, the SLA may not charge rent, occupancy, or space maintenance costs directly to the Part C of IDEA grant, unless those costs are specifically approved in advance by the secretary.

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- 1.D.24 Fiscal control and accounting procedures: the statewide system ensures that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, federal funds paid under 34 CFR Part 303.
- 1.D.25 Underserved groups: the state ensures that policies and practices have been adopted to ensure that:
- A. 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 Part C of IDEA; and
 - B. their local geographical areas.
- 1.D. 26 Appropriately and adequately trained personnel: These families have access to culturally competent services within Appropriately and adequately trained personnel The state has adopted a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide EIS to infants and toddlers with disabilities, including in a geographic area of the state where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in the ESIT Early Intervention practice guide: Personnel Qualification Standards.

1.E Descriptions

1.E.1 Availability of resources

- A. In order to assure an equitable distribution of resources, contracts are issued to CLAs and EIPAs serving a specific geographic service area, within the state. All geographic areas have access to EIS through CLA and EIPA contracts;
- B. In distributing available resources, consideration is given to the relative numbers of infants and toddlers with disabilities and their families residing in each geographic area, as well as the availability and accessibility of necessary and appropriate services within those areas;
- C. In accordance with the Department of Education's General Education Provisions Act (GEPA), section 427(b), the SLA will consider barriers to equitable access which may impede Participation, including: gender, race, national origin, color, disability, or age;
- D. The early intervention contract funding formula may include the factors identified above so that local geographic needs across the state will be addressed. The SLA allocates funds annually to each CLA and EIPA based on the approved allocation formula that addresses geographic needs. CLA and EIPA contractors are required to assure funds enhance existing services and/or make possible the provision of new services; and
- E. CLA and EIPA contracts are negotiated to assure EIS are available in each geographic area, and to assure all required components of the early intervention system are present. Regional/Local Interagency Coordinating Councils (CICCs), agencies, and providers, within

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each geographic area, work together to advise, assist, and support the designated CLA or EIPA for their area as outlined in RCW 43.216.574.

1.E.2 Equitable Access

Steps taken by the SLA that ensure equitable access to, and equitable Participation in, the Washington Part C of IDEA statewide system as required by section 427(b) of GEPA, include:

- A. State statute, chapter 43.216.576 early intervention services – Interagency Agreements. This statute requires state agencies providing or paying for EIS shall enter into formal interagency agreements with each other to define their relationships and financial and service responsibilities. Local agencies or entities and service providers receiving public funding for providing or paying for EIS shall enter into written interagency agreements with each other that define their relationships and financial responsibilities to provide services within each county;
- B. Establishment of contracts with EIPAs through a competitive bid process to ensure all geographic areas in the state, except the four (4) counties where CLAs have Original been established, are served.
- C. Establishment of contracts with four (4) CLAs to ensure through subcontracts with EIPAs (their EIS providers) that services are provided county wide in accordance with the CLA’s contract with EIST, Part C of IDEA, and Washington’s Federally Approved State Plan.
- D. Implementation of a statewide toll-free number that connects to the CLA or EIPA, that serves as a system point of entry (SPOE) for referrals to the SLA’s ESIT program, including access to a language line service to provide interpreter services when needed;
- E. Family resources coordination services are provided to each eligible infant and toddler and their family on an on-going basis to help facilitate the provision of EIS; and
- F. Upon approval by the SLA, CLAs and EIPAs may subcontract with EIS providers to ensure comprehensive EIS are available to all eligible infants and toddlers and their families in each geographic area.

1.E.3 Coordination with early learning programs

DCYF, as the SLA for Part C of IDEA early intervention in Washington State, promotes collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, et seq, as amended), early education and child care programs and programs and services under Part B of IDEA, early childhood special education programs, through the following activities:

- A. DCYF, OSPI, and Thrive by Five Washington lead the development of Washington’s Early Learning Plan (the Plan) in close collaboration with DOH, DSHS, and state and local stakeholders. The Plan is Washington’s roadmap to build a comprehensive, coordinated, effective, measurable, and accessible early learning system in Washington State for all young children and their families, including young children with disabilities. The aim of the

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Plan is to provide guidance and direction for priority settings, staffing and budget decisions, advocacy agendas, and Partnership opportunities during the next decade. Through a common vision, common outcomes, articulated strategies to achieve those outcomes, and a way to assess progress, Partners engaged in early learning efforts can collectively ensure that all children in Washington State succeed in school and in life.

- B. Consistent with section 642B(b)(1)(C)(viii) of the Head Start Act, the SLA Participates on Washington’s Early Learning and Advisory Council (ELAC) and ELAC’s State to Local Steering Committee.
- C. The SLA is helping to facilitate collaboration with other stakeholder groups, such as the SICC under Part C of IDEA, for the purpose of facilitating coordination and communication with Washington’s ELAC activities and initiatives.
- D. The SLA leads the Head Start State Collaboration Office (HSSCO). The ESIT program, administered by the SLA, participates on the HSSCO State Advisory group, ensuring young children with disabilities and their families are included in this work.

1.E.4 Public Participation

Washington State has adopted policies and procedures to ensure public Participation in the annual application for Part C of IDEA funds and when there is any new policy or procedure, including any revision to an existing policy or procedure. Public Participation notices will be published in a manner to ensure circulation throughout the state for at least a 60-day period, with a 30-day opportunity for public comment and public hearings, as appropriate, during that period.

2.A POLICY DEFINITIONS USED IN ESIT’S POLICIES AND PROCEDURES

Washington State has adopted definitions consistent with Part C of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 CFR Part 303 for use in implementing Washington’s Early Support for Infants and Toddlers (ESIT) program. Additional definitions deemed important by ESIT and Washington’s State Interagency Coordinating Council (SICC) are also included.

2.A.1 Act means the Individuals with Disabilities Education Act (IDEA), as amended.

2.A.2 American Indian/Alaska native; Indian tribe

- A. Means a person having origins in any of the original people of North and South America (including Central America) and who maintain tribal affiliation or community attachment.
- B. Indian tribe means any federally or state recognized 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.).

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- C. Nothing in this definition is intended to indicate that the United States Secretary of the Interior is required to provide services or funding to a state Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-
- 2.A.3 Child means an individual under the age of six and may include an infant or toddler with a disability, as that term is defined in this section.
- 2.A.4 Consent means that:
- A. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in this section;
 - B. The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and
 - 1. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
 - 2. If a parent revokes consent, that revocation is not retroactive to an action that occurred before the consent was revoked.
- 2.A.5 Council means the State Interagency Coordinating Council (SICC) that meets the requirements of these policies and procedures.
- 2.A.6 County Lead Agency (CLA) means the four (4) designated county organizations, under contract with DCYF's ESIT program, to ensure through subcontracts with EIPAs and EIS Providers, that EIS are provided countywide in accordance with the CLA's contract with ESIT, Part C of IDEA, and Washington's Federally Approved State Plan.
- 2.A.7 Day means calendar day, unless otherwise indicated.
- 2.A.8 Department of Children, Youth and Families (DCYF) of the State of Washington means any division, section, office, unit, or other entity of DCYF; or any of the officers or other officials lawfully representing DCYF. DCYF means the Washington State lead agency which is designated by the governor to receive federal funds to administer the state's responsibilities under Part C of IDEA.
- 2.A.9 Developmental delay, when used with respect to a child residing in Washington State, has the following meaning:
- A. A child has a developmental delay if she/he is experiencing a 1.5 standard deviation or 25% of chronological age delay in one or more developmental areas; or

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- B. Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

2.A.10 Early Intervention Provider Agency (EIPA) means an organization and its subcontractors that are under contract with DCYF's ESIT program or the four (4) CLAs to provide EIS in a designated school district catchment area of the state.

2.A.11 Early intervention service provider or EIS provider means an entity (whether public, or private, or nonprofit, including school districts) or an individual that is either an employee or subcontractor, who provides EIS in accordance with the CLA or EIPA's contract with ESIT, Part C of IDEA, and Washington Federally Approved State Plan regardless of whether or not the entity or individual receives federal funds under Part C of IDEA.

2.A.12 Early intervention services (EIS) are:

- A. Provided under public supervision;
- B. Selected in collaboration with the parents;
- C. Provided at no cost, except, subject to these policies and procedures, where federal or state law provides for a system of payments by families, including a schedule of sliding fees;
- D. Designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team, in any one or more of the following areas, including:
 - 1. Cognitive development
 - 2. Physical development
 - 3. Communication development
 - 4. Social or emotional development
 - 5. Adaptive development
- E. Provided in a way that meets the standards of Washington State, where the EIS are provided, including the requirements of Part C of IDEA;
- F. Provided by qualified personnel, as defined in this policy, including the types of personnel listed in this policy;
- G. To the maximum extent appropriate, provided in natural environments, as defined in this section and consistent with these policies and procedures; and
- H. Provided in conformity with an IFSP adopted in accordance with IDEA and this section. Provided in a manner that will enhance the capacity of the family in facilitating their child's development through natural learning opportunities at home or in community settings where children live, learn, or play;
- I. Delivered over a continuous twelve-month period, consistent with the child's individual needs.

Identified under this section as:

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1. **“ASSISTIVE TECHNOLOGY DEVICE”** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capabilities of infants and toddlers with disabilities. The term assistive technology device does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.
2. **“ASSISTIVE TECHNOLOGY SERVICE”** means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:
 - a. The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the child in the child’s customary environment;
 - b. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for infants or toddlers with disabilities;
 - c. Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - d. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - e. Training or technical assistance for an infant or toddler with disabilities or, if appropriate, that child’s family; and
 - f. Training or technical assistance for professionals, including individuals providing education or rehabilitation services, or other individuals who provide services to or are otherwise substantially involved in the major life functions of infants and toddlers with disabilities.
3. **“AUDIOLOGY SERVICES”** includes:
 - a. Identification of infants and toddlers with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;
 - b. Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
 - c. Referral for medical and other services necessary for the habilitation or rehabilitation of infants and toddlers with disabilities who have an infants and toddlers who are deaf or hard of hearing;
 - d. Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
 - e. Provision of services for prevention of hearing loss; and
 - f. Determination of the infant’s or toddler’s individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.
4. **“FAMILY TRAINING, COUNSELING, AND HOME VISITS”** means services provided, as appropriate, by social workers, psychologists, educators, and other qualified

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personnel to assist the family of an infant or toddler with a disability, in understanding the child's special needs and enhancing the child's development.

5. **"HEALTH SERVICES"** means services necessary to enable an otherwise eligible child to benefit from the other EIS under Part C of IDEA, during the time that the child is eligible to receive EIS.
 - a. The term includes:
 - i. Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and
 - ii. Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other EIS.
 - b. The term does not include services that are:
 - i. Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);
 - ii. Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or
 - iii. Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.
 - (a) Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the EIS that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.
 - (b) Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;
 - c. Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and
 - d. Medical-health services (such as immunizations and regular "well- baby" care) that are routinely recommended for all children.
6. **"MEDICAL SERVICES"** means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for EIS.
7. **"NURSING SERVICES"** include:
 - a. 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;
 - b. Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

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- c. Administration of medications, treatments, and regimens prescribed by a licensed physician.
- 8. **“NUTRITION SERVICES”** include:
 - a. Conducting individual assessments in
 - i. Nutritional history and dietary intake;
 - ii. Anthropometric, biochemical, and clinical variables;
 - iii. Feeding skills and feeding problems; and
 - iv. Food habits and food preferences.
 - c. Developing and monitoring appropriate plans to address the nutritional needs of children eligible under Part C of IDEA based on the assessment findings in this subsection; and
 - d. Making referrals to appropriate community resources to carry out nutrition goals.
- 9. **“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:
 - a. Identification, assessment, and intervention;
 - b. 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
 - c. Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.
- 10. **“PHYSICAL THERAPY”** includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:
 - a. Screening, evaluation, and assessment of children to identify movement dysfunction;
 - i. Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - ii. Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.
- 11. **“PSYCHOLOGICAL SERVICES”** include:
 - a. Administering psychological and developmental tests and other assessment procedures;
 - b. Interpreting assessment results;
 - c. Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

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- d. 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.
- 12. **“SERVICE COORDINATION”** – See Family Resources Coordination. Service coordination means 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 required procedural safeguards, and is referred to as Family Resources Coordination in Washington State.
- 13. **“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.
- 14. **“SOCIAL WORK SERVICES”** include:
 - a. Making home visits to evaluate a child’s living conditions and patterns of parent-child interaction;
 - b. Preparing a social or emotional developmental assessment of the infant or toddler, within the context of the family;
 - c. 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;
 - d. Working with those problems in the living situation (home, community, and any center where EIS are provided) of an infant or toddler with a disability and the family of that child that affect the child’s maximum utilization of EIS; and
 - e. 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 EIS.
- 15. **“SPECIAL INSTRUCTION”** includes:
 - a. The design of learning environments and activities that promote the infant or toddler’s acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
 - b. Curriculum planning (including the planned interaction of personnel, materials, and time and space) that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;
 - c. Providing families with information, skills, and support related to enhancing the skill development of the child; and
 - d. Working with the infant or toddler with a disability to enhance the child’s development.
- 16. **“SPEECH-LANGUAGE PATHOLOGY”** services include:
 - a. 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;

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- b. 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
 - c. Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.
17. **“TRANSPORTATION AND RELATED COSTS”** includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child’s family to receive EIS.
18. **“VISION SERVICES”** means:
- a. Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;
 - b. Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
 - c. Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.
 - i. Types of qualified personnel who provide EIS under Part C of IDEA are:
 - a) AUDIOLOGISTS
 - b) FAMILY THERAPISTS
 - c) NURSES
 - d) OCCUPATIONAL THERAPISTS
 - e) ORIENTATION AND MOBILITY SPECIALISTS
 - f) PEDIATRICIANS and other physicians for diagnostic and evaluation purposes
 - g) PHYSICAL THERAPISTS
 - h) PSYCHOLOGISTS
 - i) REGISTERED DIETITIANS
 - j) SOCIAL WORKERS
 - k) SPECIAL EDUCATORS, including teachers of the deaf and hard of hearing and teachers of children with visual impairments (including blindness)
 - l) SPEECH AND LANGUAGE PATHOLOGISTS
 - m) VISION SPECIALIST, including OPHTHALMOLOGISTS and OPTOMETRISTS
- (1) The services and personnel identified and defined in this section do not comprise exhaustive lists of the types of services that may constitute EIS or the types of qualified personnel that may provide EIS. Nothing in this section prohibits the identification in the IFSP of another type of service as an EIS, provided that the service meets the criteria identified in this section or of another type of personnel that

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may provide EIS in accordance with Part C of IDEA, provided such personnel meet the requirements in these policies and procedures.

- 2.A.13 **Early Support for Infants and Toddlers (ESIT)** means the Part C of IDEA program administered by DCYF for Washington State.
- 2.A.14 **Elementary school** means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under state law.
- 2.A.15 **Family resources coordination** – In Washington State, service coordination services (case management) are referred to as family resources coordination.

A. General:

1. As used in Part C of IDEA, 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 Part C of IDEA.
2. Each infant or toddler with a disability and the child's family shall be provided with one service coordinator who is responsible for:
 - a. Coordinating all services required under Part C of IDEA across agency lines; and Serving as the single point of contact for carrying out the activities described in this section.
 - b. Service coordination is an active, ongoing process that involves:
 - i. Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the EIS required under Part C of IDEA; and
 - ii. Coordinating the other services identified in the IFSP that are needed by, or are being provided to, the infant or toddler with a disability and that child's family.

B. Specific service coordination services include:

1. Assisting parents of infants and toddlers with disabilities in obtaining access to needed EIS 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 EIS and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
3. Coordinating evaluations and assessments;
4. Facilitating and Participating in the development, review, and evaluation of IFSPs;
5. Conducting referral and other activities to assist families in identifying available EIS providers;
6. Coordinating, facilitating, and monitoring the delivery of services required under Part C of IDEA to ensure that the services are provided in a timely manner;

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7. Conducting follow-up activities to determine that appropriate Part C of IDEA services are being provided;
 8. Informing families of their rights and procedural safeguards, as set forth in these policies and procedures and related resources;
 9. Coordinating the funding sources for services required under this Part C of IDEA; and
 10. Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.
- C. Use of the term service coordination or service coordination services: The lead agency's or an EIS provider's use of the term service coordination or service coordination services does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act – Medicaid), for purposes of claims in compliance with the requirements of policies and procedures related to payor of last resort provisions.
- D. Washington State's policies and procedures for implementing the ESIT program are designed and implemented to ensure that FRCs are able to effectively carry out, on an interagency basis,

2.A.16 **Family Resources Coordinator (FRC)**

- A. An individual who assists an eligible child and his/her family in gaining access to the EIS and other resources as identified in the IFSP, and receiving the rights and procedural safeguards of the early intervention program.
- B. FRCs may be employed or assigned in any way that is permitted under state law, so long as it is consistent with the requirements of Part C of IDEA. FRCs shall be registered according to ESIT procedures and have demonstrated knowledge and understanding about:
 1. Infants and toddlers who are eligible under Part C of IDEA;
 2. Part C of IDEA and its implementing regulations at 34 CFR § Part 303.23;
 3. The nature and scope of services available under the state's early intervention program, the system of payments for services in the state, and other pertinent information; and
 4. Local early intervention resources available in their assigned geographic service area.

2.A.17 **Free Appropriate Public Education or FAPE**, as used in these policies and procedures means special education and related services that:

- A. Are provided at public expense, under public supervision and direction, and without charge;
- B. Meet the standards of the state educational agency (SEA), including the requirements of Part B of IDEA;
- C. Include an appropriate preschool, elementary school, or secondary school education in Washington State; and

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- D. Are provided in conformity with an individualized education program (IEP) that meets the requirements under regulations for Part B of IDEA.
- 2.A.18 **Homeless children** means children who meet the definition given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.
- 2.A.19 **Individualized education program or IEP** means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Part B of IDEA.
- 2.A.20 **Individualized family service plan (IFSP)** means the written plan required for providing EIS to an eligible infant or toddler and the infant or toddler's family. (See IFSP Policy for more detail.)
- 2.A.21 **IFSP team or individualized family service plan team** means the child's family; Family Resources Coordinator; service providers, and others, as identified on the plan.
- 2.A.22 **Include and including** means that the items named are not all the possible items that are covered, whether like or unlike the ones named.
- 2.A.23 **Infants and toddlers with disabilities**
- A. Means an individual under three years of age who needs EIS 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:
 - a. Cognitive development.
 - b. Physical development, including vision and hearing.
 - c. Communication development.
 - d. Social or emotional development.
 - e. Adaptive development; or
 2. Has a diagnosed physical or mental condition that:
 - a. Has a high probability of resulting in developmental delay; and
 - b. Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.
- B. May include, at a state's discretion, an at-risk infant or toddler as defined in this section. (Washington has not chosen to implement this option.)
- 2.A.24 **Informed clinical opinion (ICO)** means the required element of all eligibility decisions, for each individual professional and for all teams. ICO may be used as the primary basis for an eligibility decision when there are limitations in test results related to the child's age or condition. ICO shall not be used to negate the results of an evaluation instrument that yields scores meeting eligibility criteria.

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2.A.25 **Interagency agreement** means any written agreement between state agencies needed to implement Part C of IDEA

2.A.26 **Local educational agency (LEA)**

- A. Generally, 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:
 - a. Authorized by state law to develop, manage, and provide services or programs to LEAs; and
 - b. Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state.
 2. Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under state law.
 3. Entities that meet the definition of intermediate educational unit or IEU in IDEA, 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:
 - a. Is under the general supervision of a state educational agency;
 - b. Is established by state law for the purpose of providing FAPE on a regional basis; and
 - c. Provides special education and related services to children with disabilities within the state.
 4. Bureau of Indian Education (BIE)-funded schools: The term includes an elementary school or secondary school funded by the BIE, and not subject to the jurisdiction of any SEA other than the BIE, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under IDEA with the smallest student population.

2.A.27 **Multidisciplinary** means the involvement of two or more separate disciplines or professions and with respect to:

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- A. Evaluation of the child and assessments of the child and family in accordance with these policies and procedures, may include one individual who is qualified in more than one discipline or profession; and
- B. The IFSP team shall include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals shall be the service coordinator consistent and in accordance with these policies and procedures.

2.A.28 **Native language**

- A. When used with respect to an individual who is limited English proficient (LEP), as that term is defined in IDEA, 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 this section; and
 - 2. For evaluations and assessments conducted pursuant to these policies and procedures, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
- B. When used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual, such as sign language, Braille, or oral communication.

2.A.29 **Natural environments** mean settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and shall be consistent with the provisions of these policies and procedures.

2.A.30 **Office of Superintendent of Public Instruction (OSPI)** means the state educational agency responsible for the supervision of public elementary and secondary schools.

2.A.31 **Parent**

- A. 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;
- B. 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;
- C. 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
- D. A surrogate parent who has been appointed in accordance with these policies and procedures or Part C of IDEA.
 - 1. Except:

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- a. Except as provided in this section, the biological or adoptive parent, when attempting to act as the parent under Part C of IDEA and when more than one Party is qualified under this section to act as a parent, shall 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 EIS decisions for the child.
- b. If a judicial decree or order identifies a specific person or persons under this section to act as the “parent” of a child or to make educational or EIS decisions on behalf of a child, then the person or persons shall be determined to be the “parent” for purposes of Part C of IDEA, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

2.A.32 **Parent Training and Information Center** means a center assisted under IDEA.

2.A.33 **Part B of IDEA** means special education of children with disabilities under the Individuals with Disabilities Education Act at 20 U.S.C. §§1431-1443, as amended.

2.A.34 **Part C of IDEA** means the infants and toddlers with disabilities program under the Individuals with Disabilities Education Act at 20 U.S.C. §§1431- 1443, as amended.

2.A.35 **Personally identifiable information** has the meaning given to the term in 34 CFR §99.3 as amended, except that the term “student” in the definition of personally identifiable information in 34 CFR §99.3 means “child” as used in Part C of IDEA and any reference to “school” means “EIS provider” as used in Part C of IDEA.

2.A.36 **Public agency** means the SLA and any other agency or political subdivision of the state.

2.A.37 **Qualified personnel** means personnel who have met Washington State’s approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations, or assessments, or providing EIS.

2.A.38 **Record** means any information recorded in any way, including, but not limited to, handwriting, print, computer, media, video or audio tape, film, microfilm, and microfiche.

2.A.39 **School district** means a local education agency (LEA) administering elementary and secondary schools.

2.A.40 **Scientificallly-based research** has the meaning given the term in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In applying the ESEA to the regulations under Part C of IDEA, any reference to “education activities and programs” refers to “early intervention services.”

2.A.41 **Screening** means optional administration of an appropriate instrument to determine the need for further evaluation.

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- 2.A.42 **Secretary** means the United States secretary of the department of education.
- 2.A.43 **State educational agency (SEA)**
- A. Means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by state law.
 - B. The term includes the agency that receives funds under Part B of IDEA to administer the state's responsibilities under Part B of IDEA.
- 2.A.44 **State**, except as provided in these policies and procedure regarding state allotments under Part C of IDEA, -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.
- 2.A.45 **State lead agency (SLA)** means the DCYF's ESIT program administering the federal Part C of IDEA grant to coordinate and provide statewide EIS. The SLA is the single line of responsibility established by the governor that is responsible for the administration of Part C of IDEA in Washington State. (See Policy 1 Authorities, Purpose, and Assurances for detail.)
- 2.A.46 **System of payments and fees** means the ESIT policy on families' financial contribution to their child's program under Part C of IDEA.
- 2.A.47 **Ward of the state** means:
- A. A child who, as determined by Washington State, is:
 - 1. A foster child; A ward of Washington State; or
 - 2. In the custody of a public child welfare agency.
 - B. Ward of the state does not include a foster child who has a foster parent who meets the definition of a parent in this section.

3.A POLICY STATE DEFINITION OF DEVELOPMENTAL DELAY

- 3.A.1 The SLA ensures that children, birth to three, shall be eligible for EIS under Part C of IDEA, if the multidisciplinary team finds any one of the following criteria exists:

A. Developmental delay:

- 1. A child shall be eligible if he or she demonstrates a delay of 1.5 standard deviation or 25% of chronological age delay in one or more of the following developmental areas, as measured by appropriate diagnostic instruments and procedures, and administered by qualified personnel.
 - a. Cognitive
 - b. Physical (fine or gross motor)
 - c. Communication (receptive or expressive language)
 - d. Social or Emotional

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e. Adaptive

2. Informed Clinical Opinion

- a. The SLA shall ensure that informed clinical opinion given by qualified personnel may be used as an independent basis to establish a child's eligibility even when instruments do not establish eligibility; and
- b. In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

B. **Diagnosed physical or mental condition:** A child shall be eligible if he or she has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. Such conditions include, but are not limited to:

1. CHROMOSOMAL ABNORMALITIES;
2. GENETIC OR CONGENITAL DISORDERS;
3. SENSORY IMPAIRMENTS;
4. INBORN ERRORS OF METABOLISM;
5. DISORDERS REFLECTING DISTURBANCE OF THE DEVELOPMENT OF THE NERVOUS SYSTEM;
6. CONGENITAL INFECTIONS;
7. SEVERE ATTACHMENT DISORDERS; 3 STATE DEFINITION OF DEVELOPMENTAL DELAY POLICY
8. TOXIC SUBSTANCES – disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

3.A.2 This definition does not include children from birth to age three who do not meet the above criteria and who are at risk of having substantial developmental delays if EIS are not provided.

4 PUBLIC AWARENESS PROGRAM POLICY

4.A Policy

4.A.1 The SLA, under Part C of IDEA, ensures a public awareness program that:

- A. Focuses on the early identification of infants and toddlers with disabilities; and
- B. Provides information to parents of infants and toddlers through primary referral sources, in accordance with these policies and procedures.

4.A.2 The SLA ensures a public awareness program that requires the SLA to:

- A. Prepare information on the availability of EIS under Part C of IDEA, and other services, as described in these policies and procedures;
- B. Disseminate to all primary referral sources, especially hospitals and physicians, the information to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning

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or developmental complications; and

- C. Adopt procedures for assisting the primary referral sources, described in these policies and procedures, in disseminating the information described in this section to parents of infants and toddlers with disabilities.

4.A.3 The SLA shall ensure the following information shall be prepared and disseminated including:

- A. A description of the availability of EIS under the ESIT program;
- B. A description of Washington’s child find system and how to refer a child under the age of three for an evaluation or EIS; and
- C. The central directory, as described under these policies and procedures.

4.A.4 The SLA ensures that the public awareness program provides for informing parents of toddlers with disabilities of the availability of services under section 619 of IDEA not fewer than 90 days prior to the toddler’s third birthday.

4.B Procedures

4.B.1 The SLA ensures through contracts with CLAs and EIPAs that program information and materials for parents and others are disseminated to all primary referral sources. CLAs and EIPAs may order free copy print materials from the SLA for local distribution. CLAs and EIPAs are required to document where materials are locally distributed.

4.B.2 Any individual may download program materials at no cost from the ESIT website.

4.B.3 Program information and materials are provided in the native language of various population groups represented in the state when feasible to do so.

5. CENTRAL DIRECTORY POLICY

5.A Policy

5.A.1 The SLA ensures a central directory that is accessible to the general public, through the SLA’s website and other appropriate means, and includes accurate, up-to-date information about:

- A. Public and private EIS, resources, and experts available in the state;
- B. Research and demonstration projects being conducted in the state relating to infants and toddlers with disabilities;
- C. Professional and other groups, including parent support, and training and

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information centers, such as those funded under Part C of IDEA, that provide assistance to infants and toddlers with disabilities eligible under Part C of IDEA and their families; and

D. The CLA or EIPA for each geographic area of Washington.

5.A.2 The information required above shall be in sufficient detail to ensure that:

A. The general public shall be able to determine the nature and scope of the services and assistance available from each of the sources listed in the directory; and

B. Parents of a child eligible for Part C of IDEA can contact, by telephone or letter, any of the sources listed in the directory.

5.B Procedures

5.B.1 The SLA shall contract for a toll free 1-800 number, for the central directory. The toll-free number maintains current information and is updated on an ongoing basis. The toll-free number is accessible to the general public, distributed statewide, has multistate access, and includes interpretive services.

5.B.2 Directory information shall be available in each region of the state, including rural areas and in places and a manner that ensures accessibility by persons with disabilities.

5.B.3 The central directory shall be updated at least annually and accessible to the general public.

5.B.4 Information about the directory is distributed through the statewide public awareness program.

6. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT POLICY

6.A Policy

The SLA shall include a comprehensive system of personnel development (CSPD), including the training of paraprofessionals and primary referral sources with respect to the basic components of EIS available in Washington.

6.B Procedures

6.B.1 The CSPD shall include

A. Training personnel in implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;

B. Promoting the preparation of early intervention service providers who are fully and

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appropriately qualified to provide EIS under Part C of IDEA; and

- C. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from ESIT under Part C of IDEA to a preschool program under section 619 of Part B of IDEA, Head Start, Early Head Start, an elementary school program under Part B of IDEA or another appropriate program.
- 6.B.2 The CSPD may include
 - D. Training personnel to work in rural and inner-city areas;
 - E. Training personnel in the emotional and social development of young children;
 - F. Training personnel to support families in Participating fully in the development and implementation of the child's IFSP; and
 - G. Training personnel who provide services under Part C of IDEA, using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable.
- 6.B.3 The CSPD shall provide
 - H. Pre-service and in-service training to be conducted on an interdisciplinary basis to the extent appropriate;
 - I. The training of a variety of personnel to meet the requirements of Part C of IDEA including:
 - 1. EIS providers;
 - 2. Primary referral sources;
 - 3. Paraprofessionals; and
 - 4. FRCs.
 - J. Opportunities for parents to Participate in training activities both as presenters and Participants.

7. QUALIFIED PERSONNEL STANDARD POLICY

7.A Policy

- 7.A.1 The SLA ensures the establishment and maintenance of qualification standards for personnel necessary to carry out Part C of IDEA.
- 7.A.2 The SLA ensures that personnel are appropriately and adequately prepared and trained,

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including the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with state law, regulations, or written policy, to assist in the provision of EIS to infants and toddlers with disabilities and their families.

- 7.A.3 The personnel qualification standards are consistent with any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which the individual is conducting evaluations, assessments or providing EIS.
- 7.A.4 The SLA has adopted a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide EIS to infants and toddlers with disabilities and their families.
- 7.A.5 In a geographic area of the state where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable coursework necessary to meet the standards described in this section shall be recruited and hired in accordance with state requirements.

7.B Procedures

- 7.B.1 The SLA is responsible for ensuring that the most current hiring and personnel standards for the specific disciplines included in the definitions section of these policies and procedures are followed.
- 7.B.2 A chart summarizing personnel requirements from Washington statutes and rules of Washington agencies, applicable to serving children under Part C of IDEA and their families, is maintained and available to CLAs, EIPAs, Regional/Local Interagency Coordinating Councils, and the public.
- 7.B.3 Employers and applicants should consult with the Washington State department of health (DOH) and OSPI for the most current licensure and/or certification requirements.

8. COMPREHENSIVE CHILD FIND SYSTEM AND REFERRAL POLICY

8.A Policy

- 8.A.1 The SLA ensures a comprehensive child find system that:
 - A. Is consistent with Part B of IDEA and the rules for the provision of special education (WAC 392-172A-02040);
 - B. Includes a system for making referrals to CLAs, and EIPAs, under Part C of IDEA that:
 - 1. Includes timelines; and

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2. Provides for Participation by the primary referral sources described in this section.
 - C. Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under Part C of IDEA that will reduce the need for future services; and
 - D. Meets the requirements of this section and procedures related to screenings, evaluations, and assessments.
- 8.A.2 The SLA, as Part of the child find system, ensures that:
- A. All infants and toddlers with disabilities in Washington who are potentially eligible for EIS under Part C of IDEA are identified, located, and evaluated, including:
 1. American Indian/Alaska native infants and toddlers with disabilities residing on a reservation geographically located in Washington, including coordination, as necessary, with tribes, tribal organizations, and tribal networks to identify infants and toddlers with disabilities in Washington, based, in Part, on the information provided by them to the SLA under Part C of IDEA;
 2. Infants and toddlers with disabilities who are homeless, in foster care, or wards of Washington State; and
 3. Infants and toddlers with disabilities under the age of three required by the Child Abuse Prevention and Treatment Act (CAPTA) reauthorized with the enactment of the Keeping Children and Families Safe Act of 2003 (P.L. 108-36) and implemented through Washington's DSHS Children's Administration referral procedures to Part C of IDEA early intervention, who are:
 - a) The subject of a substantiated case of child abuse or neglect; or
 - b) Identified as directly affected by illegal substance abuse or 8 COMPREHENSIVE CHILD FIND SYSTEM AND REFERRAL POLICY withdrawal symptoms resulting from prenatal drug exposure; and
 - B. An effective method is developed and implemented to identify children who are in need of EIS.
- 8.A.3 The SLA, with the assistance of the SICCC, ensures that the child find system under Part C of IDEA is coordinated:
- A. With all other major efforts to locate and identify children by other state agencies responsible for administering the various education, health, and social service

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programs relevant to Part C of IDEA, including Indian tribes that receive payments under Part C of IDEA, and other Indian tribes, as appropriate;

- B. Is coordinated with the efforts of the:
1. Program authorized under Part B of IDEA;
 2. 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));
 3. 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));
 4. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
 5. Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
 6. Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
 7. Child Protection Services, Family Voluntary Services, and Child Family Welfare Workers, 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) reauthorized with the enactment of the Keeping Children and Families Safe Act of 2003 (P.L. 108-36);
 8. Child care programs and other early learning programs in Washington;
 9. The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
 10. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC);
 11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) and
- C. Programs/agencies that administer the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11431 et seq.) for children that are homeless;
- D. The SLA ensures the child find system includes procedures for use by primary

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referral sources for referring a child under the age of three to the ESIT program; and

- E. The SLA ensures that procedures for referrals shall:
 - 1. Provide for referring a child as soon as possible, but in no case more than seven days after the child has been identified; and
 - 2. Meet the requirements of this section.

8.B Procedures

- 8.B.1 The CLA or EIPA shall coordinate the early identification (child find) of eligible infants and toddlers and their families (including targeted outreach to traditionally underrepresented populations) within their geographic service area.
- 8.B.2 The SLA, with the advice and assistance of the SICCC, shall take steps to ensure that:
 - A. There will not be unnecessary duplication of effort by the agencies involved in the state's child find system under Part C of IDEA; and
 - B. The state will make use of the resources available, through each public agency in the state, to implement the child find system in an effective manner.
- 8.B.3 The procedures in this section require the referral of a child under the age of three, as required by the Child Abuse Prevention and Treatment Act (CAPTA) reauthorized with the enactment of the Keeping Children and Families Safe Act of 2003 (P.L. 108-36) and implemented through Washington's DSHS, Children's Administration referral procedures to Part C of IDEA early intervention, who are:
 - A. The subject of a substantiated case of child abuse or neglect; or
 - B. Identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
- 8.B.4 Primary referral sources include:
 - C. Hospitals, including prenatal and postnatal care facilities
 - D. Physicians
 - E. Parents, including parents of infants and toddlers
 - F. Child care programs and early learning programs
 - G. Local education agencies and schools
 - H. Public health facilities
 - I. Other public health or social service agencies

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- J. Other clinics and health care providers
 - K. Public agencies and staff in the child welfare system, including child protective service and foster care.
 - L. Homeless family shelters
 - M. Domestic violence shelters and agencies
- 8.B.5 The CLA or EIPA shall ensure that all referrals of children who reside in the designated geographic service areas are responded to.
- A. Within three (3) business days of receipt of the referral, a designated CLA or EIPA staff member must make contact with the family.
 - B. The FRC shall be assigned within a reasonable time as outlined in the CLA and EIPA contracts.

9. SCREENING, EVALUATION, AND ASSESSMENT POLICY

9.A DEFINITIONS For the purpose of adopting requirements for screening, evaluation, and assessment under Part C of IDEA, the following definitions apply:

- 9.A.1 **Assessment** means the ongoing procedures, including family-directed assessment, used by qualified personnel to identify the child's unique strengths and needs, along with the EIS appropriate to meet the needs of the child and family.
- A. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.
- 9.A.2 **Evaluation** means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under Part C of IDEA, consistent with the definition of infant or toddler with a disability.
- A. Initial evaluation refers to the child's evaluation to determine his or her initial eligibility under Part C of IDEA.
- 9.A.3 **Family-directed assessment** means a procedure used to identify the priorities, resources and concerns of the family and identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child. 9.C.2-3 Screening procedures
- 9.A.4 **Screening procedures**

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- A. Mean activities under this section that are carried out by, or under the supervision of, the CLA or, EIPA to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of EIS; and
- B. Include the administration of appropriate instruments by personnel trained to administer those instruments.

9.B POLICY

- 9.B.1 Except as provided in 9.B.6 of this policy, any screening, the initial evaluation, the initial assessments of the child and family, and the initial IFSP meeting shall be completed within 45 days from the date the CLA, EIPA or EIS provider receives the referral of the child.
- 9.B.2 The 45-day timeline described in this section does not apply for any period when:
 - A. The child or parent is unavailable to complete the screening, the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
 - B. The parent has not provided consent for the screening, the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the CLA, EIPA or EIS provider to obtain parental consent.
- 9.B.3 The initial family assessment shall be conducted within the 45-day timeline in paragraph 9.B.6.A below, if the parent concurs and even if other family members are unavailable.
- 9.B.4 For every child under the age of three who is referred to the ESIT program or screened in accordance with this policy, the CLA or EIPA is not required to:
 - A. Provide an evaluation of the child unless the child is suspected of having a disability or the parent requests an evaluation under this section; or
 - B. Make EIS available under Part C of IDEA to the child unless a determination is made that the child meets the definition of infant or toddler with a disability under these policies and procedures.
- 9.B.5 The SLA has adopted procedures, consistent with the requirements of 34 CFR Part 303, to screen children under the age of three who have been referred to the ESIT program to determine whether they are suspected of having a disability under Part C of IDEA.

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- 9.B.6 The SLA ensures that subject to obtaining parental consent and providing prior written notice, each child under the age of three who is referred for evaluation or EIS under Part C of IDEA and suspected of having a disability receives:
- A. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with this policy unless eligibility is established under paragraph 9.B.7 or 9.B.8-9 ICO; and
 - B. If the child is determined eligible as an infant or toddler with a disability:
 - 1. A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services to meet those needs; and
 - 2. A family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. The assessments of the child and family are described in this section and these assessments may occur simultaneously with the evaluation, provided that the requirements of this section are met.
- 9.B.7 A child's medical and other records may be used to establish eligibility, without conducting an evaluation of the child, under Part C of IDEA, if those records indicate that the child's level of functioning in one or more of the developmental areas, as identified and defined in these policies and procedures, constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability due to a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay.
- 9.B.8 Qualified personnel shall use ICO when conducting an evaluation and assessment of the child.
- 9.B.9 The SLA ensures that informed clinical opinion may be used as an independent basis to establish a child's eligibility under Part C of IDEA even when other instruments do not establish eligibility. However, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under Part C of IDEA.
- 9.B.10 All evaluations and assessments of the child and family shall be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.
- 9.B.11 Unless clearly not feasible to do so, all evaluations and assessments of a child shall be conducted in the native language of the child, in accordance with the definition of

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native language in these policies and procedures.

- 9.B.12 Unless clearly not feasible to do so, family assessments shall be conducted in the native language of the family members being assessed, in accordance with the definition of native language in these policies and procedures.

9.C Procedures

- 9.C.1 The SLA ensures procedures that in the event that exceptions to the 45-day timeline exist, as described in paragraph 9.B.2 above, the CLA, EIPA, or EIS provider shall:

- A. Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the CLA, EIPA, or EIS provider to obtain parental consent;
- B. Complete the screening, 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 9.B.2. above no longer exist, or parental consent is obtained for the screening, the initial evaluation, and the initial assessment of the child; and
- C. Develop and implement an interim IFSP, to the extent appropriate and consistent with these policies and procedures.

- 9.C.2 The CLA, EIPA, or EIS provider is not required to conduct screening activities. However, if the CLA, EIPA, or EIS provider chooses to conduct screening activities, the following applies: The purpose of the screening is to determine if further evaluation activities are required; and

- A. The screening shall include the administration of appropriate instruments by personnel trained to administer those instruments.

- 9.C.3 If the CLA, EIPA, or EIS provider proposes to screen a child who has been referred to Part C of IDEA, it shall:

- A. Provide the parent notice under these policies and procedures of its intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation under Part C of IDEA at any time during the screening process; and
- B. Obtain parental consent as required in these policies and procedures before conducting the screening procedures.

- 9.C.4 If the parent consents to the screening and the screening or other available information

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indicates that the child is:

- A. Suspected of having a disability, after notice is provided under these policies and procedures and once parental consent is obtained as required under these policies and procedures, an evaluation and assessment of the child shall be conducted; or
 - B. If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child shall be conducted according to these policies and procedures, even if the CLA, EIPA or EIS provider has determined according to these policies and procedures that the child is not suspected of having a disability. The CLA, EIPA or EIS provider shall provide the parent with prior written notice of this determination and include in the notice information about the parent's right to request an evaluation.
- 9.C.5 For every child under the age of three who is referred to the ESIT program or screened in accordance with these policies and procedures, the CLA, EIPA or EIS provider is not required to:
- A. Provide an evaluation of the child unless the child is suspected of having a disability or the parent requests an evaluation; or
 - B. Make EIS available under Part C of IDEA to the child unless a determination is made that the child meets the definition of infant or toddler with a disability.
- 9.C.6 If the child's Part C of IDEA eligibility is established under paragraph 9.B.6.B.2 above, CLA, EIPA or EIS provider shall conduct assessments of the child and family in accordance with these policies and procedures.
- 9.C.7 In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under Part C of IDEA. Procedures shall include:
- A. Administering an evaluation instrument;
 - B. Taking the child's history, including interviewing the parent;
 - C. Identifying the child's level of functioning in each of the developmental areas, as defined in these policies and procedures;
 - D. Gathering information from other sources, such as family members, other care givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
 - E. Reviewing medical, educational, or other records.

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- 9.C.8 An assessment of each infant or toddler with a disability shall be conducted by qualified personnel, in order to identify the child’s unique strengths and needs and the EIS appropriate to meet those needs. The assessment of the child is required for the development of initial and ongoing services and shall include the following:
- A. A review of the results of the evaluation conducted under these policies and procedures;
 - B. Personal observations of the child; and
 - C. The identification of the child’s needs in each of the developmental areas as defined in these policies and procedures.
- 9.C.9 A family-directed assessment shall be conducted by qualified personnel in order to identify the family’s resources, priorities, and concerns; and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment shall:
- A. Be voluntary on the Part of each family member Participating in the assessment;
 - B. Be based on information obtained through an assessment tool and also through an interview with those family members who elect to Participate in the assessment; and
 - C. Include the family’s description of its resources, priorities, and concerns related to enhancing the child’s development.
- 9.C.10 If, based on the evaluation conducted under these policies and procedures, the CLA or EIPA determines that a child is not eligible under Part C of IDEA, the CLA , EIPA or EIS provider shall provide the parent with prior written notice required in these policies and procedures, and include in the notice information about the parent’s right to dispute the eligibility determination through dispute resolution mechanisms under these policies and procedures, such as requesting a due process hearing or mediation or filing a state complaint.

10 INDIVIDUAL FAMILY SERVICE PLAN POLICY

10.A Definitions

For the purpose of adopting requirements for Individualized Family Service Plans (IFSP) under Part C of the IDEA, the following definitions apply:

- 10.A.1 Individualized family service plan (IFSP) means a written plan for providing EIS to an infant or toddler with a disability under Part C of IDEA and the infant’s or toddler’s

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family that:

- A. Is based on the evaluation and assessment described in these policies and procedures;
 - B. Includes the content specified in these policies and procedures;
 - C. Is implemented as soon as possible once parental consent for the EIS in the IFSP is obtained, consistent with these policies and procedures;
 - D. Is developed in accordance with the IFSP procedures included in these policies and procedures; and
 - E. Provides a consistent level of frequency and intensity for a continuous twelve-month period based on child and family need, and not availability of providers.
- 10.A.2 Frequency and intensity means the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis.
- 10.A.3 Method means how a service is provided.
- 10.A.4 Location means the actual setting, place or places, where a service will be provided.
- 10.A.5 Length means the length of time the service is provided during each session of that service, such as an hour or other specified time period.
- 10.A.6 Duration means projecting when a given service will no longer be provided, such as when the child is expected to achieve the results or outcomes in his or her IFSP.
- 10.A.7 For each infant or toddler with a disability, the SLA shall ensure the development, review, and implementation of an IFSP is developed by a multidisciplinary team, which includes the parent.
- 10.A.8 The SLA ensures, if there is a dispute between agencies, as to who has responsibility for developing or implementing an IFSP, the SLA shall resolve the dispute or assign responsibility.

10.B Procedures

10.B.1 IFSP development, review, and evaluation

- A. After initial evaluation and assessment, if the evaluation team determines the child is:
 - 1. Eligible for services, prior written notice of eligibility shall be provided to the parent(s) and an IFSP shall be developed within forty-five days of the initial

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referral date, as described in Policy 9.B.1 Screening, Evaluation and Assessment; and

2. Not eligible for services, prior written notice of ineligibility shall be provided to the parent(s) within forty-five days of the initial referral date. An IFSP is not developed for the child and family; and
- B. A review of the IFSP for a child and the child's family shall be conducted every six months or more frequently if conditions warrant, or if the family requests such a review;
- C. The purpose of the periodic review is to determine:
1. The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
 2. Whether modification or revision of the results, outcomes, or EIS identified in the IFSP is necessary; and
- D. The IFSP review may be carried out by a meeting or by another means that is acceptable to the parents and other participants;
- E. Each periodic review shall provide for the participation of:
1. The parent or parents of the child;
 2. Other family members as requested by the parent, if feasible to do so;
 3. An advocate or person outside of the family if the parent requests that the person participate;
 4. The Family Resources Coordinator (FRC) designated by the EIPA to be responsible for implementing the IFSP; and
 5. If conditions warrant, provisions shall be made for the participation of:
 - a. A person or persons directly involved in conducting the evaluations and assessments under these policies and procedures; and
 - b. As appropriate, persons who will be providing EIS under Part C of IDEA to the child or family; and
- F. A meeting shall be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family and to develop a new IFSP;
- G. The results of any current evaluations and other information available from the

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assessments of the child and family conducted under these policies and procedures shall be used in determining what EIS are needed and will be provided;

- H. All IFSP meetings, initial, annual, and periodic, shall be conducted:
 - 1. In settings and at times that are convenient to families; and
 - 2. In the native language of the family, or other mode of communication used by the family, unless it is clearly not feasible to do so; and
- I. Meeting arrangements shall be made with, and written notice provided to, the family and other Participants, early enough before the meeting date to assure that they will be able to attend;
- J. The contents of the IFSP shall be fully explained to the parents and informed written consent, as described in these policies and procedures, shall be obtained prior to the provision of EIS described in the IFSP. Each early intervention service shall be provided as soon as possible after the parent provides consent for that service, as required in this section;
- K. Each initial meeting and each annual IFSP team meeting to evaluate the IFSP shall include the following participants:
 - 1. The parent or parents of the child
 - 2. Other family members as requested by the parent, if feasible to do so
 - 3. An advocate or person outside of the family, if the parent requests that the person Participate
 - 4. The FRC designated by the CLA or EIPA to be responsible for implementation of the IFSP
 - 5. A person or persons directly involved in conducting the evaluations and assessments under these policies and procedures
 - 6. As appropriate, persons who will be providing EIS under Part C of IDEA to the child or family; and
- L. If a person or persons directly involved in conducting the evaluations and assessments under these policies and procedures is unable to attend any meeting, arrangements shall be made for the person(s) involvement through other means, including one of the following:
 - 1. Participating in a telephone conference call;

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2. Having a knowledgeable and authorized representative attend the meeting; or
3. Making pertinent records available at the meeting.

10.B.2 Content of the IFSP

A. The IFSP shall include:

1. Based on the information from the child's evaluation and assessments conducted under these policies and procedures, a statement of the infant or toddler with a disability's present levels of:
 - a. Physical development, including: fine motor, gross motor, vision, hearing, and health status
 - b. Cognitive development
 - c. Communication development
 - d. Social or emotional development and
 - e. Adaptive development; and
2. With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under these policies and procedures;
3. A statement of the measurable results or measurable outcomes expected to be achieved for the child, including pre-literacy and language skills, as developmentally appropriate for the child and family, and the criteria, procedures, and timelines used to determine:
 - a. The degree to which progress toward achieving the results or outcomes, identified in the IFSP, is being made; and
 - b. Whether modifications or revisions of the expected results or outcomes or EIS identified in the IFSP are necessary; and

B. A statement of the specific EIS based on peer-reviewed research, to the extent practicable, that are necessary to meet the unique needs of the child and the family, to achieve the results or outcomes identified above including:

1. Length, duration, frequency, intensity, and method of delivering the EIS;
2. A statement that each early intervention service is provided in the natural

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environment for that child or service to the maximum extent appropriate, consistent with these policies and procedures, or subject to Part C of IDEA, a justification as to why an early intervention service will not be provided in the natural environment;

3. The determination of the appropriate setting for providing EIS to an infant or toddler with a disability, including any justification for not providing a Particular early intervention service in the natural environment for that infant or toddler with a disability and service, shall be:
 - a. Made by the IFSP team, which includes the parent and other team members;
 - b. Consistent with the provisions in these policies and procedures; and
 - c. Based on the child's outcomes that are identified by the IFSP team; and
 - i. The location of the EIS; and
 - ii. The payment arrangements, if any; and
 - iii. EIS providers may not interrupt, modify, or otherwise change the delivery of EIS for reasons unrelated to the child's individual needs, including service availability, changes in EIS providers' schedules, or availability of staff including, during summer months;
- C. Other Services:
 1. The IFSP shall identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required by team agreement or funded under Part C of IDEA; and
 2. If those services are not currently being provided, include a description of the steps the FRC or family may take to assist the child and family in securing those other services; and
- D. The projected date for the initiation of each early intervention service in the IFSP, which date shall be as soon as possible after the parent consents to the service, as required in these policies and procedures and the anticipated duration of each service;
- E. The name of the FRC from the profession most relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities under this Part C of IDEA, who will be responsible for implementing the EIS identified in a

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child's IFSP, including transition services, and coordination with other agencies and persons. In meeting the requirements of this section, the term "profession" includes "service coordination;"

F. Transition Steps and Services:

1. Steps and services to be taken to support the smooth transition of the child in accordance with these policies and procedures from Part C of IDEA to:
 - a. Preschool services under Part B of IDEA, to the extent that those services are appropriate; or
 - b. Other appropriate services; and

G. The steps required in this section include:

1. Discussions with and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
2. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
3. Confirmation that child find information about the child has been transmitted to the local educational agency (LEA) or other relevant agency, in accordance with these policies and procedures and, with parental consent if required under these policies and procedures, transmission of additional information needed by the LEA to ensure continuity of services from the Part C of IDEA program to the Part B of IDEA program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with these policies and procedures; and
4. Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

10.B.3 Interim IFSPs – provision of services before evaluations and assessments are completed
Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment if the following conditions are met:

- A. Parental consent is obtained;
- B. An interim IFSP is developed that includes:
 1. The name of the FRC who will be responsible, consistent with these policies and

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procedures, for implementation of the interim IFSP and coordination with other agencies and persons; and

2. The EIS that have been determined to be needed immediately by the child and the child's family; and
- C. Evaluations and assessments are completed within the 45-day timeline, in accordance with these policies and procedures.
- 10.B.4 Responsibility and accountability Each public agency or early intervention service provider who has a direct role in the provision of EIS is responsible for making a good faith effort to assist each eligible child and family in achieving the outcomes in the child's IFSP. However, Part C of IDEA does not require that any public agency or early intervention service provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

11 NATURAL ENVIRONMENTS POLICY

11.A Policy

- 11.A.1 The SLA ensures, to the maximum extent appropriate to the needs of the child, EIS are provided in natural environments.
- 11.A.2 Natural environments mean settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and shall be consistent with the provisions of these policies and procedures.
- 11.A.3 The SLA ensures that the provision of EIS only occurs in a setting other than a natural environment if one or more of a child's IFSP outcomes cannot be met by providing EIS in a natural setting, as determined by the parent and the IFSP team.

11.B Procedures

- 11.B.1 The IFSP shall include a statement that each EIS is provided in the natural environment for that child or service to the maximum extent appropriate. The IFSP also shall include a written statement justifying why an EIS will not be provided in a natural environment and include a plan and timeline to transition EIS into natural environments.
- 11.B.2 The determination of the appropriate setting for providing EIS to an infant or toddler with a disability, including any justification for not providing a Particular EIS in the natural environment, shall be:

- A. Made by the IFSP Team (which includes the parent and other team members);

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- B. Consistent with the provisions in these policies and procedures; and
- C. Based on the child's outcomes that are identified by the IFSP Team.

12 TRANSITION POLICY

12.A Policy

12.A.1 The SLA ensures a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving EIS under Part C of IDEA to:

- A. Special education and related services; or
- B. Other appropriate services for toddlers with disabilities; or
- C. When exiting the ESIT program at any age.

12.A.2 The SLA and the SEA ensures a seamless transition between services under Part C of IDEA and under Part B of IDEA through the development and implementation of an interagency agreement that meets the requirements of this policy and chapter 392-172A WAC, rules for special education.

12.A.3 In accordance with these policies and procedures, the SLA ensures that:

- A. The transition notification, conference, and plan requirements of this section apply to all toddlers with disabilities receiving services under Part C of IDEA before those toddlers turn age three;
- B. For toddlers with disabilities, who may be eligible for Part B of IDEA, notification of the SEA and the LEA for the area in which the toddler resides shall be notified;
- C. For all toddlers with disabilities, transition steps and services are developed and implemented; and
- D. Transition conferences are convened.

12.A.4 The SLA ensures that for all toddlers with disabilities, a transition plan is developed consistent with this policy and with policies and procedures related to the IFSP.

12.A.5 Transition activities are implemented consistent with the state interagency agreement on transition between the DCYF and OSPI.

12.B Procedures

12.B.1 The CLA and EIPA are responsible for ensuring transition steps and services are developed and implemented for any toddler who will transition from EIS to the

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following programs or services:

- A. Preschool services under Part B of IDEA;
- B. Part C of IDEA services when there is a state option to make EIS available to children ages three and older; and
- C. Other appropriate services.

12.B.2 The CLA and EIPA are responsible for ensuring that notification requirements are met and shall disclose, as outlined below, the following personally identifiable information:

- A. A child's name;
- B. A child's date of birth; and
- C. Parent contact information, including parents' names, addresses, and telephone numbers.

12.B.3 This information is needed to enable the SLA, as well as LEAs and the SEA under Part B of IDEA, to identify all children potentially eligible for services under Part B of IDEA. The SLA shall:

- A. Not fewer than 90 days before the third birthday of the toddler with a disability, if that toddler has been determined to be potentially eligible for special education and related services under Part B of IDEA, will notify the SEA and the LEA for the area in which the toddler resides that the toddler, on his or her third birthday, will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with Washington State law;
- B. If the toddler is determined eligible for EIS under Part C of IDEA more than 45 but less than 90 days before that toddler's third birthday and if that toddler has been determined to be potentially eligible for special education services under Part B of IDEA, as soon as possible after determining the child's eligibility, notify the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with Washington State law; or
- C. Ensure that if a toddler is referred to a CLA or EIPA fewer than 45 days before that toddler's third birthday and that toddler may be eligible for special education and related services under Part B of IDEA, with the parental consent required under these policies and procedures, the CLA or EIPA refers the toddler to the SEA and the LEA for the area in which the toddler resides. The CLA or EIPA are not required to

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conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

12.B.4 The CLA or EIPA, who are responsible for facilitating the implementation of the IFSP, shall establish potential eligibility for Part B services, with the IFSP team, according to Washington State's definition and enter the decision into the ESIT data management system (DMS).

12.B.5 The CLA or EIPA, who are responsible for facilitating the transition conference shall:

- A. If a toddler with a disability has been determined to be potentially eligible for special education and related services under Part B of IDEA, with the approval of the family of the toddler, convene a transition conference, among the CLA, EIPA, EIS provider, 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 IDEA; and
- B. If determined that a toddler with a disability is not potentially eligible for special education and related services under Part B of IDEA, with the approval of the family of that toddler, make reasonable efforts to convene a transition conference among the CLA, EIPA, EIS provider, the family, and providers of other appropriate services for the toddler, to discuss appropriate services that the toddler may receive. **12.B.6** The CLA or EIPA, who are responsible for facilitating the transition plan in the IFSP, shall:
 - C. Review the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;
 - D. Ensure each family of a toddler with a disability who is served under Part C of IDEA is included in the development of the transition plan required under these policies and procedures and the policies related to the IFSP;
 - E. Establish a transition plan in the IFSP not fewer than 90 days, and, at the discretion of all Parties, not more than 9 months, before the toddler's third birthday; and (o) Ensure the transition plan, as Part of the IFSP, includes the following steps and services:
 - F. Discussions with, and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
 - G. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in a new setting;

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- H. Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency; and
 - I. With parent consent, the transmission of additional information needed by the LEA or other relevant agency to ensure continuity of services from Part C of IDEA early intervention to Part B of IDEA special education which may include:
 - 1. A copy of the most recent evaluation and assessments of the child and the family;
 - 2. A copy of the most recent IFSP developed; and
 - 3. Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.
- 12.B.7 Any conference conducted to discuss services or meeting convened to develop the transition plan, (the conference and meeting may be combined into one meeting) shall meet the IFSP meeting requirements related to accessibility and convenience of meetings, parental consent requirements, and initial and annual IFSP meeting Participant requirements.

13 PROCEDURAL SAFEGUARDS POLICY

13.A Policy

- 13.A.1 The SLA, under Part C of IDEA, has established procedural safeguards that meet the requirements of Part C of IDEA and its implementing regulations, including the provisions on confidentiality, parental consent, prior written notice, surrogate parents, and dispute resolution procedures.
- 13.A.2 The SLA ensures effective implementation of procedural safeguards by each Participating agency as defined in paragraph 13.B.1 (a)(2), including the SLA, each CLA, EIPA, and EIS providers in Washington that are involved in the provision of EIS, under contracts with ESIT or subcontracts with CLAs or EIPAs.
- 13.A.3 State and local interagency agreements have been developed to ensure effective implementation of Part C of IDEA procedural safeguards by each public agency in the state that is involved in the provision of EIS.
- 13.A.4 The SLA ensures that the parents of a child referred under Part C of IDEA are afforded the right to confidentiality of personally identifiable information, including the right to written notice of and written consent to, the exchange of that information among agencies, consistent with federal and state laws.

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- 13.A.5 The SLA ensures the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to Part C of IDEA by Participating agencies as defined in paragraph 13.B.1.A.3, including the SLA, CLAs, EIPAs, and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR Part 99.
- 13.A.6 The SLA has procedures in effect to ensure that the parents of infants or toddlers who are referred to or receive services under Part C of IDEA, are afforded the opportunity to inspect and review all Part C of IDEA early intervention records about the child and the child's family that are collected, maintained, or used under Part C of IDEA, including records related to screening, evaluations, and assessments, eligibility determinations, development, and implementation of IFSPs, provision of EIS, individual complaints involving the child, or any Part of the child's early intervention record, under Part C of IDEA.
- 13.A.7 The confidentiality procedures described in these policies and procedures applies from the point in time when the child is referred for EIS under Part C of IDEA until the Participating agency is no longer required to maintain or no longer maintains that information under applicable federal and state laws.
- 13.A.8 The SLA ensures the establishment and implementation of written policies and procedures for the timely administrative resolution of complaints through mediation, state complaint procedures, and due process hearing procedures.

13.B Procedures

13.B.1 Confidentiality of information

A. **Definitions:** The following definitions apply to this section:

1. **DESTRUCTION** means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable;
2. **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 IDEA and its implementing regulations with respect to a Particular child. A Participating agency includes the SLA, CLAs, EIPAs, EIS providers and any individual or entity that provides any Part C of IDEA services (including service coordination, evaluations and assessments, and other Part C of IDEA 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

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insurance companies) that act solely as funding sources for Part C of IDEA services; and

3. **PERSONALLY IDENTIFIABLE INFORMATION** means information that includes, but is not limited to, the following:
 - a. The name of the child, the child's parent, or other family members;
 - b. The address of the child or child's family;
 - c. A personal identifier, such as the child's or parent's social security number, child number, or biometric record; or
 4. A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty;
 5. Other indirect identifiers such as the child's date of birth, place of birth, and mother's maiden name;
 6. Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the early intervention community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or
 7. Information requested by a person who the contractor reasonably believes knows the identity of the child to whom the early intervention record relates; and
- B. **Notice to parents:** The CLA, EIPA or EIS providers shall give notice when a child is referred under Part C of IDEA, that is adequate to fully inform parents about the requirements under confidentiality, including:
1. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
 2. A summary of the policies and procedures that Participating agencies shall follow regarding storage, disclosure to third Parties, retention, and destruction of personally identifiable information;
 3. A description of all the rights of parents and children regarding this information, including their rights under the Part C of IDEA confidentiality provisions;

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4. A description of the extent that the notice is provided in the native languages of the various population groups in Washington State; and
5. When children transfer to another early intervention program within Washington State:
 - a. Parental consent is not needed to transfer records generated by the early intervention program to the receiving early intervention program; and
 - b. Parental consent is required to transfer records not generated by the early intervention program to the receiving early intervention program; and

C. Access rights:

1. Each Participating agency shall permit parents to inspect and review, during business hours, any early intervention records relating to their child that are collected, maintained, or used by the agency under Part C of IDEA. The agency shall comply with the parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any impartial due process hearing and in no case more than 10 days after the request has been made;
2. The right to inspect and review early intervention records under these policies and procedures includes:
 - a. The right to a response from the Participating agency to reasonable requests for explanations and interpretations of the early intervention records;
 - b. The right to request that the Participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
 - c. The rights to have a representative of the parent inspect and review the early intervention records; and
3. An agency may presume that the parent has authority to inspect and review records relating to their child, unless the agency has been provided documentation that the parent does not have the authority under applicable state laws governing such matters as custody, foster care, guardianship, separation, and divorce; and

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4. The CLA, EIPA or EIS provider shall make available to parents an initial copy of the child's early intervention record, at no cost to the parents; and
- D. **Record of access:** Each Participating agency shall keep a record of Parties obtaining access to early intervention records collected, maintained, or used under Part C of IDEA, except access by parents and authorized representatives 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;
- E. **Records on more than one child:** If any early intervention record includes information on more than one child, the parent(s) 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;
- F. **List of types and locations of information:** Each Participating agency shall provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency;
- G. **Fees:**
 1. Except for the initial copy, each Participating agency may charge a fee for copies of records that are made for parents under Part C of IDEA, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records except as provided in (3) below;
 2. A Participating agency may not charge a fee to search for or to retrieve information under Part C of IDEA; and
 3. A Participating agency shall 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; and
- H. **Amendment of records at parent's request:**
 1. A parent who believes that information in early intervention records collected, maintained, or used under Part C of IDEA is inaccurate or misleading or violates the privacy or other rights of the child or parent, may request the participating agency that maintains the information to amend the information;
 2. The Participating agency shall decide whether to amend the information, in accordance with the request, within a reasonable period of time of receipt of the request; and

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3. If the Participating agency decides to refuse to amend the information, in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under this policy; and
- I. **Opportunity for a hearing:** The Participating agency, on request, shall provide parents with an opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent. A parent may request a due process hearing under the Part C of IDEA procedures, provided that such hearing procedures meet the requirements of the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR Part 99 or may request a hearing directly under the FERPA procedures below;
- J. **Family Educational Rights and Privacy Act (FERPA) hearing procedures regarding records:** A FERPA hearing initiated pursuant to this policy to challenge information in early intervention records shall be conducted according to procedures that include at least the following elements:
 1. The hearing shall be held within a reasonable period of time after the Participating agency has received the request;
 2. The parent shall be given notice of the date, time, and place reasonably in advance of the hearing;
 3. The hearing may be conducted by any individual, including an official of the Participating agency, who does not have a direct interest in the outcome of the hearing;
 4. The parent shall be given a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his or her choice, at his or her own expense, including an attorney;
 5. The Participating agency shall provide a written decision to the parent, within a reasonable period of time after the conclusion of the hearing; and
 6. The decision shall:
 - a. Be based solely upon the evidence presented at the hearing; and
 - b. Include a written summary of the evidence and the reasons for the decision; and
- K. **Result of hearing:**

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1. If, as a result of the hearing, the Participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent, it shall amend the information accordingly and so inform the parent in writing;
2. If, as a result of the hearing, a decision is made that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent, the Participating agency shall inform the parent(s) of the right to place in the 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; and
3. Any explanation placed in the records of the child pursuant to this policy shall:
 - a. Be maintained by the Participating agency, as Part of the records of the child, as long as the record or contested portion is maintained by the agency; and
 - b. If the early intervention records of the child or the contested portion are disclosed by the agency to any Party, the explanation shall also be disclosed; and

L. **Consent:**

1. Without parental consent, the SLA shall disclose to the state educational agency (SEA) and the local educational agency (LEA) where the child resides, in accordance with the state interagency transition agreement, the following personally identifiable information under IDEA:
 - a. A child's name;
 - b. A child's date of birth; and
 - c. Parent contact information (including parents' names, addresses, and telephone numbers); and
2. The information listed above is needed to enable the SLA, as well as LEAs and the SEA under Part B of IDEA, to identify all children potentially eligible for services under Part C of IDEA and Part B of IDEA;
3. Except as provided in paragraph below, prior parental consent shall be obtained before personally identifiable information is:
 - a. Disclosed to anyone other than authorized representatives, officials, or employees of Participating agencies collecting, maintaining, or using the

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information under this Part C of IDEA, subject to (4) of this section; or

- b. Used for any purpose other than meeting a requirement of Part C of IDEA; and
4. The SLA or other Participating agency may not disclose personally identifiable information to any Party except Participating agencies, including the SLA, CLAs, EIPAs, and EIS providers, that are Part of the state's early intervention program without parental consent, unless authorized to do so under:
 - a. The transition requirements in these policies and procedures and the state's interagency agreement for transition as referenced in (L1) above; or
 - b. One of the exceptions enumerated in FERPA regulations at 34 CFR §99.31, where applicable to Part C of IDEA, which are expressly adopted to apply to Part C of IDEA through this reference. In applying the exceptions in FERPA at 34 CFR §99.31 to Part C of IDEA, Participating agencies shall also comply with the pertinent conditions in 34 CFR §99.32, 99.33, 99.34, 99.35, and 99.36; and
5. The SLA shall provide policies and procedures to be used when a parent refuses to provide consent under this policy, such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under Part C of IDEA, provided that those procedures do not override a parent's right to refuse consent under these policies and procedures; and

M. Safeguards:

1. Each Participating agency shall protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages;
2. The Participating agency shall designate one individual responsible for ensuring the confidentiality of any personally identifiable information;
3. All persons collecting or using personally identifiable information shall receive training or instruction regarding:
 - a. The policies and procedures on protection of the confidentiality of personally identifiable information; and
 - b. FERPA; and
 - c. Each Participating agency shall maintain, for public inspection, a current

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listing of the names and positions of those employees, within the agency, who may have access to personally identifiable information; and

N. Destruction of information:

1. The Participating agency shall inform parents when personally identifiable information collected, maintained, or used under Part C of IDEA is no longer needed to provide services to the child under Part C of IDEA of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR Part 76 and 80; and
2. Subject to paragraph (1) of this section, the information shall be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information, including address and phone number, names of FRCs 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.

13.B.2 Prior written notice

- A. Prior written notice shall be provided to the parent(s) in a reasonable time before the SLA, CLA, EIPA, or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler or the provision of appropriate EIS to the child and the family.
- B. The notice shall be in sufficient detail to inform the parents about:
 1. The action that is being proposed or refused;
 2. The reasons for taking the action; and
 3. All the procedural safeguards that are available under Part C of IDEA including a description of mediation, how to file a state complaint and a due process hearing, including any timelines under those procedures.
- C. The notice shall be:
 1. Written in language understandable to the general public; and
 2. Provided in the native language, as defined in these policies and procedures, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- D. If the native language or other mode of communication of the parent is not a written language, the CLA, EIPA, or EIS provider shall take steps to assure that:

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

13.B.3 Parental consent and ability to decline services

A. Obtaining parental consent requires that the parent(s):

1. Has been fully informed, in the parent(s) native language, of all information relevant to the activity for which consent is sought;
2. Understands and agrees in writing to the carrying out of the activity for which the parent(s)' consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and
3. Understands the granting of consent is voluntary on the Part of the parent(s) and may be revoked at any time.

B. The CLA, EIPA and EIS provider shall ensure parental consent is obtained before:

1. Administering screening procedures under these policies and procedures that are used to determine whether a child is suspected of having a disability;
2. All evaluations and assessments of a child are conducted under these policies and procedures;
3. Early intervention services are provided to the child under Part C of IDEA;
4. Public benefits or insurance or private insurance is used if such consent is required under these policies and procedures; and
5. Disclosure of personally identifiable information consistent with policies and procedures related to disclosure of confidential information.

C. If a parent does not give consent for screening, evaluations and assessments, or the provision of EIS, the CLA, EIPA or EIS provider shall make reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment of the child or EIS that would be available; and
2. Understands that the child will not be able to receive the evaluation,

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assessment, or early intervention service unless consent is given.

- D. The SLA, CLA, EIPA, or EIS provider may not use the due process hearing procedures under Part C of IDEA to challenge a parent's refusal to provide any consent that is required under this policy.
- E. The parents of an infant or toddler with a disability:
- F. Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under Part C of IDEA at any time, in accordance with state law; and
 - 1. May decline a service after first accepting it, without jeopardizing other EIS under Part C of IDEA. If a parent(s) revokes consent, that revocation is not retroactive to an action that occurred before the consent was revoked.

13.B.4 Surrogate parents

- A. Each CLA, EIPA or EIS provider shall ensure that the rights of the child are protected when:
 - 1. No parent, as defined in these policies and procedures, can be identified;
 - 2. The CLA, EIPA or EIS provider, after reasonable efforts, cannot locate a parent; or
 - 3. The child is a ward of the state of Washington under the laws of the state.
- B. The duty of the CLA, EIPA or EIS provider under Part C of IDEA includes the assignment of an individual to act as a surrogate for the parent. This assignment process shall include a method for:
 - 1. Determining whether a child needs a surrogate parent; and
 - 2. Assigning a surrogate parent to the child.
- C. In implementing the provisions under this section for children who are wards of the state or placed in foster care, the CLA, EIPA or EIS provider shall consult with the public agency that has been assigned care of the child.
- D. In the case of a child who is a ward of the state, the surrogate parent, instead of being appointed by the CLA, EIPA or EIS provider may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in this policy.
- E. The CLA, EIPA or EIS provider may select a surrogate parent in any way permitted

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under state law.

- F. Public agencies shall ensure that a person selected as a surrogate parent:
 - 1. Is not an employee of the SLA, CLA, EIPA, or any other public agency or EIS provider that provides EIS, education, care, or other services to the child or any family member of the child;
 - 2. Has no personal or professional interest that conflicts with the interest of the child he or she represents; and
 - 3. Has knowledge and skills that ensure adequate representation of the child.
- G. A person who is otherwise qualified to be a surrogate parent under this policy is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
- H. The surrogate parent has the same rights as a parent for all purposes under Part C of IDEA.
- I. The CLA, EIPA or EIS provider shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

13.B.5 Dispute resolution options

- A. Mediation:
 - 1. The SLA shall ensure that procedures are established and implemented to allow Parties to disputes involving any matter under Part C of IDEA, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.
 - 2. The procedures shall meet the following requirements:
 - a. The procedures shall ensure that the mediation process:
 - i. Is voluntary on the Part of the Parties;
 - ii. Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of IDEA; and
 - 3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
 - 4. The SLA shall maintain a list of individuals who are qualified mediators and

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knowledgeable in laws and regulations relating to the provision of EIS.

5. The SLA shall select mediators on a random, rotational, or other impartial basis.
6. The SLA shall bear the cost of the mediation process, including the costs of meetings described in paragraph below.
7. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the Parties to the dispute.
8. If the Parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth that resolution and that:
 - a. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - b. Is signed by both the parent and a representative of the SLA, CLA, EIPA or EIS provider who has the authority to bind such agency.
9. A written, signed mediation agreement under this paragraph is enforceable in any Washington state court of competent jurisdiction or in a district court of the United States.
 - a. Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or Washington state court.
 - b. Mediator:
 - i. An individual who serves as a mediator under Part C of IDEA:
 - a) May not be an employee of the SLA, CLA, EIPA, or an EIS provider that is involved in the provision of EIS or other services to the child; and
 - b) Shall not have a personal or professional interest that conflicts with the person's objectivity.
 - c. A person who otherwise qualifies as a mediator is not an employee of the SLA, CLA, EIPA, or an EIS provider solely because he or she is paid by the agency or provider to serve as a mediator.
 - d. The SLA may establish procedures to offer to parents, CLAs, EIPAs and EIS providers that choose not to use the mediation process, an opportunity to

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meet, at a time and location convenient to the parents, with a disinterested Party:

- i. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center, or community parent resource center in Washington state established under 34 CFR §§671 or 672; and
- ii. Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

B. Impartial due process hearing:

1. The SLA shall adopt written due process hearing procedures to resolve complaints with respect to a Particular child regarding the identification, evaluation, or placement of the infant or toddler, or the provision of EIS to the infant or toddler with a disability and that infant's or toddler's family.
2. The SLA has adopted Part C of IDEA due process hearing procedures that meet the requirements of the Part C of IDEA regulations and provide a means of filing a request for a due process hearing.
3. Whenever a due process hearing request is received, a due process hearing officer shall be appointed to implement the complaint resolution process in this policy. The person shall:
 - a. Have knowledge about the provisions of Part C of IDEA and the needs of, and EIS available for, infants and toddlers with disabilities and their families; and
 - b. Perform the following duties:
 - i. Listen to the presentation of relevant viewpoints about the due process complaint
 - ii. Examine all information relevant to the issues
 - iii. Seek to reach a timely resolution of the due process complaint
 - iv. Provide a record of the proceedings, including a written decision
 - c. Impartial means that the due process hearing officer appointed to implement the due process hearing under Part C of IDEA:
4. Is not an employee of the SLA, CLA, EIPA, or an EIS provider involved in the provision of EIS or care of the child; and

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5. Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.
 - a. A person who otherwise qualifies under this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures under Part C of IDEA.
 - b. The SLA shall ensure that the parents of a child referred to Part C of IDEA are afforded the rights listed below in the due process hearing carried out under this policy. Any parent involved in an impartial due process hearing has the right to:
 - c. At the parent's expense, be accompanied and advised by counsel and by individuals with special knowledge or training with respect to EIS for infants and toddlers with disabilities;
 - d. Present evidence and confront, cross-examine, and compel the attendance of witnesses;
 - e. Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
 - f. Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
 - g. Receive a copy of the findings of fact and decisions at no cost to the parent.
6. Any due process hearing conducted under these policies and procedures shall be carried out at a time and place that is reasonably convenient to the parents.
7. The SLA shall ensure that, not later than thirty calendar days after the receipt of a parent's due process complaint, the due process hearing required under this policy is completed and a written decision mailed to each of the parties.
8. A hearing officer may grant specific extensions of time beyond the period set out in this section at the request of either Party.
9. Any Party aggrieved by the findings and decision issued pursuant to an impartial due process hearing has the right to bring a civil action in Washington state or federal court under IDEA.
10. During the pendency of any proceeding involving a due process complaint under this section, unless the SLA and parents of an infant or toddler with a disability otherwise agree, the child shall continue to receive the appropriate EIS in the

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setting identified in the IFSP that is consented to by the parents. If the due process complaint under these policies and procedures involves an application for initial services under Part C of IDEA, the child shall receive those services that are not in dispute.

14 SYSTEM OF PAYMENTS AND FEES POLICY

- 14.A.1 Part C of IDEA was designed by congress to be a comprehensive, coordinated, interagency system of services for infants and toddlers with disabilities. Congress recognized that there were already existing programs that were serving this population and Part C of IDEA was designed to provide the infrastructure to coordinate across these programs. As a result, the funding for Part C of IDEA was designed to utilize federal, state, and local fund sources, including public and private insurance. Because there is not enough public funding to cover all early intervention costs, not all EIS can be provided at public expense. Families are expected to contribute financially to their child's program. This expectation can be met by giving access to private health care/insurance and Apple Health for Kids/Medicaid for those EIS that are subject to ESIT's Family Cost Participation requirements.
- 14.A.2 It is incumbent upon the ESIT to maximize the use of all of these resources in order to serve the greatest number of infants and toddlers with disabilities and their families. It is also incumbent upon ESIT to ensure that these resources are used to deliver EIS that are sufficient to provide developmental benefit to the child. In order for ESIT to maintain its broad eligibility criteria, the use of all available fund sources, including public insurance, private insurance, and fees is essential.
- 14.A.3 If necessary to prevent a delay in the timely provision of appropriate EIS to a child or the child's family, ESIT may use funds under Part C of IDEA to pay the provider of authorized services and functions, (including health services, as defined in 34 CFR §303.16, [but not medical services]; functions of the child find system described in 34 CFR §§303.115 through 303.117 and §§303.301 through 303.320; and evaluations and assessments in §303.321); pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

14.B Policy

14.B.1 Functions and services provided at public expense

- A. In accordance with 34 CFR §303.521(b) (2011), the following Part C of IDEA functions and services shall be provided at public expense by the Early Support for Infants and Toddlers program (ESIT) and its service providers and for which no fees may be charged to families:

1. Implementing the child find requirements in §§303.301 through 303.303;
2. Evaluation and assessment, in accordance with §303.320, and the functions

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related to evaluation and assessment in §303.13(b);

3. Service coordination services (Family Resources Coordination), as defined in §§303.13(b) (11) and 303.33;
4. Administrative and coordinative activities related to:
 - a. The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§303.342 through 303.345; and
 - b. Implementation of Subpart E, Procedural Safeguards, and the other components of the statewide system of EIS in subpart D of 34 CFR Part 303; and (b) Assurance: In accordance with 34 CFR §303.521(a)(4)
 - c. if a family meets the definition of “inability to pay”, all Part C of IDEA services identified on their child’s IFSP will be provided at no cost to the family. In addition, the family’s inability to pay will not result in a delay or denial of Part C of IDEA services.

14.B.2 Functions and services subject to family cost Participation (FCP)

A. In accordance with 34 CFR §303.521(b), the following functions and services are subject to Family Cost Participation and for which co-payments, co-insurance, deductibles, or fees may be charged to families:

1. Assistive Technology Device
2. Assistive Technology Service
3. Audiology Services
4. Counseling
5. Health Services
6. Nursing Services
7. Nutrition Services
8. Occupational Therapy
9. Physical Therapy
10. Psychological Services
11. Social Work Services

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12. Speech-Language Pathology Services

13. Special Instruction

B. CLAs, EIPAs and EIS providers shall:

1. Track reimbursements for each EIS; and
2. Decrease the parent(s)' fee, if needed, to ensure the total reimbursements from all sources do not exceed the actual cost for each EIS; and
3. Assurance: In accordance with 34 CFR §303.521 (a) (4)(iii), families will not be charged any more than the actual cost of the Part C of IDEA early intervention service that is subject to Family Cost Participation (factoring in any amount received from other sources of funds designated for payment for that service).

14.B.3 Funding sources that are incorporated into Washington's System of Payments and Fees for Early Intervention Services subject to Family Cost Participation It is the expectation that unless inability to pay has been determined, all families who receive services that are subject to Family Cost Participation will contribute financially to their child's services by using their public insurance benefits, private insurance benefits, or by paying a fee. As a result, the following fund sources have been incorporated into ESIT's System of Payments and Fees Policy:

- A. Public Health Care Coverage/Insurance (Apple Health for Kids/Medicaid)
- B. Private Health Care Coverage/Insurance
- C. Fees.

14.B.4 Family income and expense information

- A. Prior to billing public or private insurance, families will be provided the ESIT System of Payment and Fees Policy. Families will be asked to complete, as appropriate, the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form;
- B. The family's FRC will assist families in reviewing and completing the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form, as appropriate;
- C. The Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form will be submitted to the FRC assigned to the

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- family;
- D. If the family income and expense information results in an adjusted annual income below 200% of the Federal Poverty Level (FPL) based on family size, the family will not be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee. Other agency funds or Part C of IDEA funds as payer of last resort may be used to cover these costs; and
 - E. If the family income and expense information results in an adjusted annual income above 200% of the FPL based on family size, if applicable, the family will be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee.

14.B.5 Use of public health care coverage/insurance (Apple Health for Kids/Medicaid)

- A. In accordance with 34 CFR §303.520(a)(2)(i), families enrolled in an ESIT early intervention program will not be required to sign up for or enroll in Apple Health for Kids/Medicaid, as a condition for their child to receive Part C of IDEA EIS;
- B. In accordance with 34 CFR §303.520(a)(3), families will be provided the ESIT System of Payments and Fees Policy prior to using a child or parent's public benefits or insurance to pay for Part C of IDEA services;
- C. In accordance with 34 CFR §303.520(a)(2)(ii), early intervention providers will obtain family consent if access to Apple Health for Kids/Medicaid would result in any of the following:
 - 1. A decrease in the available lifetime coverage or any other insured benefit for the child or parent under that program;
 - 2. Result in the child's parents paying for services that would otherwise have been paid for by the public benefits or insurance program;
 - 3. Result in any increase in premiums or discontinuation of public benefits or insurance for the child or parents; or
 - 4. Risk the loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures; and
- D. In accordance with 34 CFR §303.520(b)(1), when families have both Apple Health for Kids/Medicaid and private insurance, early intervention providers shall obtain parental consent for:
 - 1. The use of the family's private health care coverage/insurance to pay for the initial provision of EIS contained on the IFSP; and

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2. The use of private health care coverage/insurance to pay for any increase in frequency, length, duration or intensity of services in the child's IFSP; and
- E. Assurance: In accordance with 34 CFR §303.521(a)(4)(iv), families with public insurance or benefits will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;
- F. Early intervention providers will:
1. In accordance with 34 CFR §§303.414 and 303.520(a)(3)(i), give written notification to families enrolled in Apple Health for Kids/Medicaid informing them that personally identifiable information will be disclosed to Apple Health for Kids/Medicaid for the purpose of billing EIS provided to their child;
 2. In accordance with 34 CFR §303.520(a)(3)(iii), inform families that they have the right to withdraw their consent to the disclosure of personally identifiable information for billing purposes at any time; and
 3. In accordance with 34 CFR §303.520(a)(3)(iv), provide a written statement of the general categories of costs that the family may incur, as a result of the use of Apple Health for Kids/Medicaid; and
- G. Early intervention providers will not pay the cost of premiums for Apple Health for Kids/Medicaid;
- H. In accordance with 34 CFR §303.520(a)(2)(iii), if the parent does not provide consent to enroll in or access Apple Health for Kids/Medicaid, early intervention providers shall still make available those Part C of IDEA EIS on the IFSP to which the parent has provided consent. The lack of consent for use of Apple Health for Kids/Medicaid may not be used to delay or deny any services under this Part to the child or family; and
- I. When eligibility for Apple Health for Kids/Medicaid cannot be confirmed or the family has declined to provide income and expense information, the family will be required to follow Washington's System Payment and Fees Policy.

14.B.6 Use of private health care coverage/insurance

- A. In accordance with 34 CFR §303.520(b)(1)(iii), families will be provided the ESIT System of Payment and Fees Policy, prior to using a child or parent's private health care coverage/ insurance to pay for Part C of IDEA services;
- B. In accordance with 34 CFR §303.520(b)(1)(i), early intervention providers shall obtain parental consent for:

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1. The use of the family's private health care coverage/insurance to pay for the initial provision of EIS contained on the IFSP; and
2. The use of private health care coverage/insurance to pay for any increase in frequency, length, duration, or intensity of services in the child's IFSP; and
3. Assurance: In accordance with 34 CFR §303.521(a)(4)(iv), families with private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.
4. In accordance with 34 CFR §303.520(b)(1)(ii), early intervention providers will provide a written statement of the general categories of costs that the family may incur as a result of the use of private health care coverage/insurance, such as:
 - a. Co-payments, co-insurance, premiums, or deductibles or other long-term costs, such as the loss of benefits because of annual or lifetime health care coverage/insurance caps under the insurance policy for the child, the parent, or the child's family members;
 - b. The potential that the use of the family's private health care coverage/insurance may negatively affect the availability of health insurance to the child with a disability, the parent, or the child's family members covered under the policy; and health care coverage/insurance may be discontinued due to the use of the insurance policy to pay for Part C of IDEA EIS; or
 - c. The potential that health care coverage/insurance premiums may be affected by the use of private insurance to pay for EIS; and
5. Early intervention providers will not pay the cost of premiums for health care coverage/insurance;
6. In accordance with 34 CFR §303.520(a)(2)(iii), if the parent does not provide consent to access private health care coverage/insurance, early intervention providers shall still make available those Part C of IDEA EIS on the IFSP to which the parent has provided consent. The lack of consent may not be used to delay or deny any services to the child or family. When the parent or family does not give consent to access their private health care coverage/insurance, the family will be required to follow Washington's System of Payment and Fees Policy;
7. For all families who have been billed co-payments, co-insurance, or deductibles,

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other agency funds, including Part C of IDEA payer of last resort funds, may be used to cover these costs; and

8. Families who are 90 days delinquent in paying their co-payments, co-insurance, or deductibles will have the services subject to Family Cost Participation suspended until a payment plan is developed. This will occur after written notification has been given to the family, Family Resources Coordinator, and service provider(s) have been notified.

14.B.7 Definition of parent ability to pay ESIT has defined ability to pay as the total adjusted annual income of the family that falls at or above 200% of the Federal Poverty Level (FPL), adjusted for allowable non-reimbursed expenses that exceed 10%.

- A. Income and expense information is needed to determine a family's ability to pay monthly fees;
- B. Allowable non-reimbursed expenses include:
 1. Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
 2. Mental health treatment not covered by insurance
 3. Home health care provided by licensed home health agency
 4. Child support/alimony payments
 5. Child care costs incurred while parent(s) work or go to school; and
- C. Prior to billing public health care coverage/insurance or private health care coverage/insurance, families will be asked to review and complete the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form that will include the following:
 1. Income and expense information;
 2. Consent to release personally identifiable information; and
 3. Consent to access public and/or private insurance coverage; and
 4. The family's ability to pay status shall be reviewed and updated at least annually or sooner if the family requests.

14.B.8 Definition of parent inability to pay ESIT has defined inability to pay as the total adjusted annual income of the family that falls below 200% of the Federal Poverty Level (FPL),

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adjusted for allowable non-reimbursed expenses that exceed 10%.

- A. Income and expense information is needed to determine a family's inability to pay;
- B. Allowable non-reimbursed expenses include:
 - 1. Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
 - 2. Mental health treatment not covered by insurance
 - 3. Home health care provided by licensed home health agency
 - 4. Child support/alimony payments
 - 5. Child care costs incurred while parent(s) work or go to school; and
- C. Prior to billing public health care coverage/insurance or private health care coverage/insurance, families will be asked to review and complete the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form that will include the following:
 - 1. Income and expense information;
 - 2. Consent to release personally identifiable information; and
 - 3. Consent to access public and/or private insurance coverage; and
- D. The family's ability to pay status shall be reviewed and updated at least annually or sooner if the family requests.

14.B.9 Fees

- A. In accordance with 34 CFR §303.521, for families who have been determined to have the "ability to pay," ESIT has established a monthly fee for EIS subject to Family Cost Participation when any of the following occur:
 - 1. The family declines use of their private health care coverage/ insurance;
 - 2. The family declines use of their Apple Health for Kids/Medicaid public health care coverage/insurance and has an adjusted annual income at or above 200% FPL; or
 - 3. The family does not have either Apple Health for Kids/Medicaid or private health care coverage/ insurance; and
- B. Families who decline to provide income and expense information will be charged a monthly fee at the highest level based upon family size, factoring in any amount

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received from other public sources of funding received in payment for those services;

- C. The Monthly Fee Schedule has been established based on the Federal Poverty Level (FPL) Guidelines and will be updated on an annual basis;
- D. If families give consent to access their public and/or private insurance for the provision of EIS that are subject to Family Cost Participation, they will not pay a monthly fee;
- E. For families who are enrolled in Apple Health for Kids/Medicaid, meet the definition of “inability to pay”, and decline access to this funding source as payment for the Part C of IDEA EIS, all Part C of IDEA services identified on their child’s IFSP will be provided at no cost. In addition, the family’s inability to pay will not result in a delay or denial of Part C of IDEA services;
- F. For families who are not enrolled in Apple Health for Kids/Medicaid and have declined to provide income and expense information, will be charged a monthly fee at the highest level based upon family size, factoring in any amount received from other public sources of funding received in payment for those services;
- G. Families who decline access to their private health care coverage/insurance and who have provided income and expense information will be charged a monthly fee based on family size and adjusted annual income;
- H. Families may ask to have a re-determination of their monthly fee any time there is a change in family size, income and/or expenses. Any adjustment made to the monthly fee will occur after re-determination has been made; and
- I. Families, who are 90 days delinquent in paying their monthly fee, will have the services for their child subject to Family Cost Participation suspended until an acceptable payment plan is developed. This will occur after written notification has been given to the family, FRC, and service provider(s).

14.B.10 Procedural safeguards requirements

- A. In accordance with 34 CFR §303.521(e), families will be provided a copy of the System of Payment and Fees Policy that details their procedural safeguards related to:
 - 1. The imposition of fees;
 - 2. The state’s determination of the parent’s ability or inability to pay; and
 - 3. The billing of public or private insurance.

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- B. Parents have the right to:
 - 1. Participate in mediation in accordance with 34 CFR §303.431;
 - 2. Request a due process hearing under 34 CFR §303.436 or §303.441, whichever is applicable;
 - 3. File a state complaint under 34 CFR §303.434; and/or
 - 4. Any other procedure established by the state to speed resolution of financial claims; and
- C. In accordance with 34 CFR §303.521(e)(2)(i) ESIT providers will give a written copy of its System of Payments and Fees Policy to parents when requesting:
 - 1. Consent for the provision of EIS is obtained at the IFSP meeting; and
 - 2. Consent for the use of private insurance to pay for Part C of IDEA services.

14.C **RELATED SOPAF TOOLS (Available on DCYF's ESIT Website at <https://www.dcyf.wa.gov/services/child-development-supports/esit>)**

14.C.1 **Family Cost Participation Guidelines**

14.C.2 **Prior Written Notice, Consent to Access Public and/or Private Insurance, Income and Expense Verification Form**

14.C.3 **Monthly Fee Schedule**

15 USE OF FUNDS POLICY

15.A POLICY

15.A.1 Payor of last resort (POLR) funds

- A. Part C of IDEA funding can only be used for EIS when another fund source is not available for the family.
- B. Part C of IDEA funding shall not be used to pay for services that would have been paid from another public or private source.
- C. Pending reimbursement from the agency or entity that has ultimate responsibility for the payment, if necessary to prevent a delay in the timely provision of appropriate EIS to a child or the child's family, ESIT may use funds under Part C of IDEA to pay for:

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1. Functions, including authorized health services as defined in 34 CFR §303.16, [but not medical services];
 2. Functions of the child find system described in 34 CFR §§303.115 through 303.117 and §§303.301 through 303.320; and
 3. Evaluations and assessments described in §303.321.
- D. Part C of IDEA funds do not allow for any:
- E. Reduction in 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., relating to maternal and child health; or
1. Reduction in use of Medicaid funds, including section 1903(a) of the Social Security Act, regarding medical assistance for services provided to a child with a disability when those services are included in the child's IFSP.

15.A.2 No comingling or supplanting

- A. Federal funds made available to the state under section 643 of IDEA:
1. Will not be commingled with state funds; and
 2. Will be used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.
- B. To meet the requirement in paragraph 15.A.2(A)(2) above, the total amount of state and local funds budgeted for expenditures in the current fiscal year, for EIS for children eligible under Part C of IDEA and their families, shall be at least equal to the total amount of state and local funds actually expended for EIS for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for the following:
1. A decrease in the number of infants and toddlers who are eligible to receive EIS under Part C of IDEA; 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:** DCYF will provide guidelines for allowable costs, including administration and indirect.

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16 THROUGH 19 RESERVED FOR FUTURE REQUIRED POLICIES

20 STATE InterAGENCY COORDINATING COUNCIL

20.A Policy

20.A.1 Establishment of the council The State Interagency Coordinating Council (SICC or Council) is appointed by the governor to advise and assist the SLA, in its duties, as required by Part C of IDEA. The governor ensures that the membership of the SICC reasonably represents the population of the state.

20.A.2 Composition

A. The members include:

1. At least twenty percent parents, including minority parents, parents of infants or toddlers with disabilities, or children twelve or younger with a disability who have knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability, age six or younger;
2. At least twenty percent public or private early intervention service providers;
3. At least one representative from the state legislature;
4. At least one person involved in personnel preparation;
5. At least one member from each state agency providing or paying for EIS to infants and toddlers with disabilities and their families and having sufficient authority to engage in policy planning and implementation on behalf of the agency;
6. At least one member from the SEA responsible for preschool services to children with disabilities and having sufficient authority to engage in policy planning and implementation on behalf of the agency;
7. At least one member from the state agency responsible for state Medicaid and the Children's Health Insurance Program (CHIP);
8. At least one member from Head Start or Early Head Start agency or program;
9. At least one member from the state agency responsible for child care;
10. At least one member from the agency responsible for the state regulation of

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private health insurance;

11. At least one member from the Office of the Coordination of Education of Homeless Children and Youth;
12. At least one member from the state child welfare agency responsible for foster care;
13. At least one member shall be from the state agency responsible for children's mental health; and
14. Other members selected by the governor may include a representative from the Bureau of Indian Education (BIE) or where there is no BIE operated or funded school, from the Indian Health Service or Tribes/Tribal Councils; and
15. The governor may appoint one member to represent more than one program or agency listed in 0.A.2(a)(7) through (14) of this section.

20.A.3 Use of funds

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

20.A.4 Minimum meeting requirements

- A. The SICCC meets at least quarterly, to advise and assist the SLA;

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- B. The governor has appointed a chair who is not a representative of the SLA;
- C. All meetings will be publicly announced with sufficient advance notice of meeting dates to assure attendance of all interested Parties;
- D. Meeting places are open and accessible to the general public;
- E. As needed, interpreters for the deaf and other necessary services shall be provided at SICC meetings, both for members and Participants. The SICC budget may be used to pay for these services; and
- F. No SICC member shall 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.

20.A.5 Council activities The Council may carry out the following activities:

- A. Advise and assist the SLA, OSPI, and other state agencies responsible for providing or paying for the provision of appropriate services for children with disabilities from birth through age five;
- B. Advise appropriate agencies in the state with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for EIS in the state;
- C. Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, as described in section 642.B(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;
- D. The Council shall advise and assist the SLA in the performance of its responsibilities, as the single line of authority and general supervision responsibilities including:
 - 1. Identification of sources of fiscal and other support for services for EIS programs under Part C of IDEA;
 - 2. Assignment of financial responsibility to the appropriate agency;
 - 3. Promotion of methods, including use of intra-agency and interagency agreements for intra-agency and interagency collaboration regarding child find, monitoring, financial responsibility and provision of EIS, and transition; and
 - 4. Preparation of applications under Part C of IDEA and amendments to those applications; and

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5. The Council shall advise and assist OSPI and the SLA regarding the transition of toddlers with disabilities to preschool and other appropriate services;
6. The Council shall:
 - a. Prepare and submit an annual report to the governor and to the secretary on the status of EIS programs for infants and toddlers with disabilities and their families under Part C of IDEA operated within the state; and
 - b. Submit the report to the secretary by a date that the secretary establishes; and
- E. Each annual report shall contain the information required by the secretary for the year for which the report is made.

21 PUBLIC PARTICIPATION POLICY

21.A Policy

21.A.1 Washington state has adopted the following policy and procedures for Public Participation:

- A. Public comment: At least 60 days prior to being submitted to the U.S. Department of Education, each application for Part C of IDEA funds, including any policies, procedures, descriptions, methods, certifications, assurances, and other information required in the application, shall be published in a manner that will ensure circulation throughout the state for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period; and
- B. Public hearings: Each application for Part C of IDEA funds shall include a description of the policies and procedures used by the state to ensure that, before adopting any new policy or procedure, including any revision to an existing policy or procedure, needed to comply with Part C of IDEA and implementing regulations, the SLA:
 1. Holds public hearings on the new policy or procedure, including any revision to an existing policy or procedure;
 2. Provides notice of the hearings held in accordance with this policy at least 30 days before the hearings are conducted to enable public Participation; and
 3. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of SICC, to comment for at least 30 days on the new policy or procedure, including any revision to an existing policy or procedure, needed to

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comply with Part C of IDEA and implementing regulations.

21.B Procedures

21.B.1 Public comment

- A. Annually, the SLA shall publish for public comment its application to the U.S. Department of Education for Part C of IDEA funds;
- B. The public comment period shall:
 - 1. Be conducted for at least a 60-calendar day notice period; and
 - 2. Contain a 30-calendar day comment period within the 60-day notice period; and
- C. The public comment notice shall:
- D. Be published in a manner that will ensure circulation throughout the state; and
- E. Contain the entire application for Part C funds, including any policies, procedures, descriptions, methods, certifications, assurances, and other information required in the application; and
- F. To meet compliance the SLA shall maintain on file the proof that public comment was conducted and submit such proof when requested.

21.B.2 Public hearings When the SLA needs to adopt any new policy or procedure, including any revision to an existing policy or procedure, that is needed to comply with Part C of IDEA and its implementing regulations and before submitting the new or revised document to the U.S. Department of Education, the SLA shall:

- A. Conduct at least two 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 this policy at least 30 days before the hearings are conducted to enable public Participation; and
- C. Provide an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the SICC, to comment for at least 30 days on the new policy or procedure, including any revision to an existing policy or procedure, needed to comply with Part C of IDEA and its implementing regulations.

21.B.3 This information is needed to enable the SLA, as well as LEAs and the SEA under Part B of IDEA, to identify all children potentially eligible for services under Part B of IDEA.

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The SLA shall:

- A. Not fewer than 90 days before the third birthday of the toddler with a disability, if that toddler has been determined to be potentially eligible for special education and related services under Part B of IDEA, will notify the SEA and the LEA for the area in which the toddler resides that the toddler, on his or her third birthday, will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with Washington State law;
- B. If the toddler is determined eligible for EIS under Part C of IDEA more than 45 but less than 90 days before that toddler's third birthday and if that toddler has been determined to be potentially eligible for special education services under Part B of IDEA, as soon as possible after determining the child's eligibility, notify the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with Washington State law; or
- C. Ensure that if a toddler is referred to a CLA or EIPA fewer than 45 days before that toddler's third birthday and that toddler may be eligible for special education and related services under Part B of IDEA, with the parental consent required under these policies and procedures, the CLA or EIPA refers the toddler to the SEA and the LEA for the area in which the toddler resides. The CLA or EIPA are not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

21.B.4 The CLA or EIPA, who are responsible for facilitating the implementation of the IFSP, shall establish potential eligibility for Part B services, with the IFSP team, according to Washington State's definition and enter the decision into the ESIT data management system (DMS).

21.B.5 The CLA or EIPA, who are responsible for facilitating the transition conference shall:

- A. If a toddler with a disability has been determined to be potentially eligible for special education and related services under Part B of IDEA, with the approval of the family of the toddler, convene a transition conference, among the CLA, EIPA, EIS provider, 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 IDEA; and
- B. If determined that a toddler with a disability is not potentially eligible for special education and related services under Part B of IDEA, with the approval of the family of that toddler, make reasonable efforts to convene a transition conference

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among the CLA, EIPA, EIS provider, the family, and providers of other appropriate services for the toddler, to discuss appropriate services that the toddler may receive.

21.B.6 The CLA or EIPA, who are responsible for facilitating the transition plan in the IFSP, shall:

- A. Review the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;
- B. Ensure each family of a toddler with a disability who is served under Part C of IDEA is included in the development of the transition plan required under these policies and procedures and the policies related to the IFSP;
- C. Establish a transition plan in the IFSP not fewer than 90 days, and, at the discretion of all Parties, not more than 9 months, before the toddler's third birthday; and
- D. Ensure the transition plan, as Part of the IFSP, includes the following steps and services:
 1. Discussions with, and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
 2. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in a new setting;
 3. Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency; and
 4. With parent consent, the transmission of additional information needed by the LEA or other relevant agency to ensure continuity of services from Part C of IDEA early intervention to Part B of IDEA special education which may include:
 - a. A copy of the most recent evaluation and assessments of the child and the family;
 - b. A copy of the most recent IFSP developed; and
 - c. Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

21.B.7 Any conference conducted to discuss services or meeting convened to develop the transition plan, (the conference and meeting may be combined into one meeting) shall meet the IFSP meeting requirements related to accessibility and convenience of

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meetings, parental consent requirements, and initial and annual IFSP meeting Participant requirements.

22 CONTRACTING OR OTHERWISE ARRANGING FOR SERVICES

22.A POLICY

22.A.1 The SLA ensures implementation of a policy pertaining to contracting or making other arrangements with public or private individuals or agency service providers to provide EIS consistent with the provisions of Part C of IDEA, including the contents of the application and the conditions of the contract or other arrangements.

22.A.2 This policy includes:

- A. A requirement that all EIS meet Washington State standards, are consistent with the provisions of Part C of IDEA, and are consistent with federal Education Department General Administrative Regulations (EDGAR) in 34 CFR §80, as amended
- B. The mechanisms that the SLA uses in arranging for these services include request for proposal, request for application, noncompetitive awards, intra or interagency agreements, personal service, and/or client services contracts; and
- C. The basic requirements that shall be met by any individual or organization seeking to provide these services for the SLA.

23 DATA COLLECTION AND REPORTING

23A. POLICY

23.A.1 The SLA has procedures to compile and report timely and accurate data on the statewide system that meet the requirements in Part C of IDEA, 34 CFR Part 303.

23.A.2 These procedures shall include a process for the following:

- A. Collecting data from CLAs, EIPAs, public agencies, and EIS providers in the state;
- B. Making use of census data for a reporting period;
- C. Making use of appropriate sampling methods, if sampling is permitted;
- D. Describing the sampling methods used, if reporting to the secretary; and
- E. Provide for reporting data required under 34 CFR §§618 and 616 that relate to Part C of IDEA.

23.A.3 The information required shall be provided at the time and in the manner specified by

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the secretary.

23.B PROCEDURES

23.B.1 The SLA shall compile data by requiring the CLAs, EIPAs and EIS providers to enter data into the ESIT electronic data management system (DMS), as outlined in each CLA and EIPA contract. The ESIT DMS generates automated data reports. DMS reports will calculate following data:

- A. The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who are receiving EIS;
- B. The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving EIS because of program completion or for other reasons;
- C. The settings in which EIS are primarily provided, by age, race/ethnicity; and
- D. Other information requested by the SLA or the secretary.

23.B.2 Gathering data from existing information systems managed by state agencies that administer funds or provide EIS.

23.B.3 The SLA shall include in its report to the secretary a certification signed by an authorized official of the SLA that the information provided under 23.B.1 above is an accurate and unduplicated count of infants and toddlers with disabilities receiving EIS.

23.B.4 In each case, the data collected from the DMS will supply the data required by the U.S. Department of Education, Office of Special Education Programs, and will be based on the submission requirements identified by the secretary.

23.B.5 The data described in this policy will be publicly reported by the state in a manner that does not result in the disclosure of data identifiable to individual children.

24 SUPERVISION, MONITORING, AND ENFORCEMENT

24.A POLICY

24.A.1 The SLA under Part C of IDEA

- A. Monitors the implementation of Part C of IDEA;
- B. Makes EIPA determinations annually about their performance in the implementation of Part C of IDEA;
- C. Enforces Part C of IDEA consistent with 34 CFR §303.704, using appropriate

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enforcement mechanisms, which includes, if applicable, the enforcement mechanisms identified in 34 CFR §303.704(a)(1) (technical assistance) and §303.704(a)(2) (imposing special conditions), or 34 CFR §303.704(b)(2)(iv) (withholding of funds, in whole or in Part by the SLA; and (d) Reports annually on the performance of the state and of each EIPA under Part C of IDEA, as provided in 34 CFR 303.702.

24.A.2 DCYF may contract with CLAs to assist with data collection for the purpose of state monitoring of all EIPAs and EIS providers in their service area.

24.A.3 Primary monitoring focus

- A. Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and
- B. Ensuring that EIPAs meet the program requirements under Part C of IDEA, with emphasis on those requirements that are most closely related to improving results for infants and toddlers with disabilities.

24.A.4 As a Part of its responsibilities under 24.A.1 (C) or 24.A.3(A)(B) above, SLA uses the indicators established by the secretary for the State Performance Plan (SPP) and state identified indicators to measure performance.

24.A.5 In exercising its monitoring responsibilities under 24.A.(2) above, the SLA ensures when it identifies CLA and EIPA noncompliance with the requirements of Part C of IDEA, the following occurs:

- A. Corrects any noncompliance as soon as possible and in no case later than one year after the state's identification of the noncompliance;
- B. Enforces any obligations imposed on those agencies under Part C of IDEA, its implementing regulations, and these policies and procedures; and
- C. Provides technical assistance, if necessary, to those agencies, institutions, and organizations.

24.A.6 SPP, Annual Performance Report (APR), and Data Collection

- A. An SPP is in place that:
 - 1. Meets the requirements described in section 616 of Part C of IDEA;
 - 2. Is approved by the secretary;
 - 3. Includes an evaluation of Washington's efforts to implement the requirements

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and purposes of Part C of IDEA; and

4. Includes a description of how improvement activities will assist in accomplishing the rigorous and measurable targets set for each indicator, established by the secretary, under the priority areas described in 34 CFR §303.700(d); and
- B. The SLA reviews its SPP annually and submits a revised document when changes occur; and (c) Data collection: The SLA collects:
1. Valid and reliable data as needed to report annually to the secretary under 34 CFR §303.702(b)(2), on SPP/APR indicators;
 2. Census data on specific indicators through its DMS;
 3. Performance and compliance data by using a variety of methods and activities (e.g. onsite monitoring, desk audits, self -assessment, family surveys).

24.A.7 Use of state targets and reporting

- A. SLA uses the targets established in Washington’s SPP under 34 CFR §303.701 and the priority areas described in 34 CFR §303.700(d) to analyze the performance of each CLA and EIPA in implementing Part C of IDEA;
- B. SLA reports annually to the public on the performance of each CLA and EIPA located in the state on the targets in the Washington APR, as soon as practicable, but no later than 120 days following submission of the Washington’s APR to the secretary;
- C. SLA makes the SPP under 34 CFR §303.701(a), its APR, and the state’s annual reports on the performance of each CLA and EIPA available through public means, by posting on the SLA’s website, and distributing to the SICC, CLAs and EIPAs;
- D. SLA reports annually to the secretary on the performance of the state under the SPP; and
- E. The SLA 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 is not sufficient to yield statistically reliable information.

24.A.8 Informing the public of an enforcement action against the SLA Whenever the SLA receives notice that the secretary is proposing to take or is taking an enforcement action pursuant to 34 CFR §303.704, the SLA shall notify the public and take any action necessary to bring a pending action related to USC §1450.616(e) and 34 CFR §303.704 of the regulations to the attention of the public. This requirement will be met by posting

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the notice on the SLA's website and distributing the notice to the SICC, CLAs, EIPAS and the media.

24.A.9 Rule of construction Nothing in this policy may be construed to restrict the secretary from utilizing any authority under GEPA, 20 USC 1221 et seq., and its regulations in 34 CFR 76, 77, 80, and 81, including the imposition of special conditions under 34 CFR 80.12, to monitor and enforce the requirements of IDEA.

24.A.10 State enforcement Nothing in this policy may be construed to restrict Washington from utilizing any other authority available to it to monitor and enforce the requirements of Part C of IDEA.

24B. PROCEDURES

24.B.1 The SLA implements a multi-pronged approach to meet its general supervision and monitoring responsibilities, including:

A. ESIT program DMS census data monitoring:

1. The ESIT DMS gathers CLA and EIPA census data that is used to monitor on SPP/APR compliance indicators and state selected compliance indicators. The ESIT DMS compliance report feature identifies each individual instance of child specific noncompliance reflected in the child's record and provides the means to verify the timely correction of each individual instance of noncompliance that has occurred.
2. ESIT staff will:
 - a. Provide notice to each CLA and EIPA that the compliance report data for a specified time period shall be accurately entered into the DMS;
 - b. Review and verify their data for accuracy;
 - c. Set the date that compliance data will be taken from the DMS;
 - d. Provide technical assistance to ensure data is accurately entered into the DMS and that sufficient information is entered for "reasons" related to noncompliance for each child so that ESIT can draw conclusions about the root cause of any noncompliance;
 - e. Freeze compliance report data, review and analyze;
 - f. Determine if there is any noncompliance based upon review of the data;
 - g. Determine if the noncompliance has already been corrected;

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- h. Determine the level of noncompliance, which includes establishing where and how much the noncompliance is occurring;
- i. Determine the contributing factors and root cause of the noncompliance.
- j. Determine if the noncompliance is isolated or systemic;
- k. Identify the required corrective actions and data needed to verify correction has occurred;
- l. Provide written notification of noncompliance that may include required corrective actions, local determination status, and site selection for ESIT onsite monitoring; and
- m. Provide written notification of noncompliance within three (3) months from the date the compliance monitoring data was taken from the DMS.

SLA monitoring process: The SLA shall also monitor CLAs and EIPAs using other mechanisms such as onsite visits, child record reviews, provider interviews, family interviews, etc.

24.B.2 Review and determination regarding local performance

- A. Based on CLA if applicable, and EIPA information obtained through the DMS, and other monitoring methods and activities, as described above in 24.B.1(a-m) and any other public information made available, the SLA determines if each EIPA:
 - 1. Meets the requirements and purposes of Part C of IDEA;
 - 2. Needs assistance in implementing the requirements and purposes of Part C of IDEA;
 - 3. Needs intervention in implementing the requirements and purposes of Part C of IDEA; or
 - 4. Needs substantial intervention in implementing the requirements and purposes of Part C of IDEA. For determinations made under A.1., A.2., and A.3. above, the SLA will provide reasonable notice and an opportunity to discuss with the EIPA and CLA if applicable, their status determination.

24.B.3 Enforcement

- A. If the SLA determines, for two consecutive years, an EIPA needs assistance under 34 CFR §303.703(b)(1)(ii) in implementing the requirements of Part C of IDEA, the SLA is required to take one or more of the following actions:

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1. Advise the EIPA and CLA if applicable, of available sources of technical assistance that may help address the areas in which they need assistance. This may include assistance from SLA or other technical assistance providers which may include:
 - a. The provision of advice by experts to address the areas in which the agency needs assistance, including explicit plans and timelines for addressing the areas of concern;
 - b. Assistance in identifying and receiving technical assistance that focuses on provision strategies and methods of early intervention service provision that are based on scientifically based research;
 - c. Designating and using the CLA if applicable, and EIPA and EIS program administrators, FRCs, service providers, and other EIS personnel to provide advice, technical assistance, and support; and
 - d. Developing additional approaches to providing technical assistance, such as collaborating with institutions of higher education, Educational Service Districts, national technical assistance centers supported under Part D of IDEA, and private consultants.
 2. Identify the CLA if applicable, and EIPA as a high-risk contractor and imposes special conditions on the contract the SLA has with the CLA and EIPA.
- B. If the SLA determines, for three or more consecutive years, that an EIPA and CLA if applicable, needs intervention under 34 CFR §303.703(b)(1)(iii) in implementing the requirements of Part C of IDEA, one or both of the following will apply:
1. The SLA may take any of the actions described in paragraph (a) of this section.
 2. The SLA takes one or more of the following actions:
 - a. Requires the CLA and EIPA to complete a corrective action plan.
 - b. Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
 - c. Withholds, in whole or in Part, any further payments to the CLA and EIPA.
 - d. Refers the matter for appropriate enforcement action.
 - e. When the SLA at any time determines that a CLA and EIPA needs substantial intervention in implementing the requirements and purposes of Part C of IDEA or that there is a substantial failure by the CLA and EIPA to comply with any requirement under Part C of IDEA, the SLA will take one or more of the

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following actions:

3. Recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
4. Withhold, in whole or in Part, any further payments to the CLA or EIPA.
5. Refer the matter for additional enforcement action.

25 STAFF LEAD AGENCY PROCEDURES RESOLVING ADMINISTRATION COMPLIANTS

25.A POLICY

25.A.1 The SLA shall resolve any complaint, including a complaint filed by an organization or individual from another state that meets the requirements of this section, by providing for the filing of a complaint with the SLA.

25.A.2 The required timeline for resolving the complaint begins with the receipt of the complaint by the SLA, CLA or EIPA, whichever is first. Any complaint received by a CLA or EIPA shall be immediately transmitted to the SLA.

25.A.3 The SLA shall widely disseminate complaint procedure information to parents and other interested individuals, including parent training centers, protection and advocacy agencies, and other appropriate entities.

25.A.4 An individual or organization may file a written and signed complaint that shall include:

- A. A statement that the SLA, CLA, EIPA, public agency or EIS provider has violated a requirement of Part C of IDEA;
- B. The facts on which the statement is based;
- C. The signature and contact information for the complainant; and
- D. If alleging violations with respect to a specific child:
 1. The name and address of the residence of the child;
 2. The name of the CLA, EIPA or EIS provider serving the child;
 3. A description of the nature of the problem of the child, including facts relating to the problem; and
 4. A proposed resolution of the problem to the extent known and available to the Party at the time the complaint is filed.

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25.A.5 The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received by the SLA, in accordance with this section.

25B. PROCEDURE

25.B.1 The Party filing the complaint shall forward a copy of the complaint to the CLA if applicable, EIPA, public agency, or EIS provider serving the child at the same time the Party files the complaint with the SLA.

25.B.2 The SLA has a time limit of 60 calendar days after a complaint is filed to:

- A. Carry out an independent on-site investigation, if the SLA determines that such an investigation is necessary;
- B. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
- C. Provide the SLA, CLA if applicable, EIPA, public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum:
 1. At the discretion of the SLA, a proposal to resolve the complaint; and
 2. An opportunity for a parent who has filed a complaint and the SLA, CLA if applicable, EIPA, public agency, or EIS provider to voluntarily engage in mediation, consistent with these policies and procedures; and
- D. Review all relevant information and make an independent determination, as to whether the SLA, CLA if applicable, EIPA, public agency, or EIS provider is violating a requirement of Part C of IDEA; and
- E. Issue a written decision to the complainant and the CLA if applicable, EIPA, public agency, or EIS provider that addresses each allegation in the complaint and contains:
 1. Findings of fact and conclusions; and
 2. The reason for the SLA's final decision.

25.B.3 In resolving a complaint in which the SLA finds a failure to provide appropriate services, the SLA, pursuant to its general supervisory authority under Part C of IDEA, shall address:

- A. 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

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- B. Appropriate future provision of services for all infants and toddlers with disabilities and their families.

25.B.4 The SLA shall permit an extension of the 60-day time limit only if: (h) Exceptional circumstances exist with respect to a Particular complaint; or

- A. The parent and the CLA if applicable, EIPA, public agency, or EIS provider involved agree to extend the time to engage in mediation pursuant to this section.

25.B.5 To ensure effective implementation of the SLA's final decision, if needed, the SLA shall:

- A. Provide technical assistance;
- B. Negotiate; and
- C. Ensure corrective actions are implemented in a timely manner.

25.B.6 If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are Part of that hearing, the SLA shall set aside any Part of the complaint that is being addressed in the due process hearing until the conclusion of the proceeding.

25.B.7 Any issue in the complaint that is not a Part of the due process hearing shall be resolved within the 60-calendar day timeline using the above complaint procedures.

25.B.8 If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same Parties:

- A. The hearing decision is binding on that issue; and
- B. The SLA shall inform the complainant to that effect.

25.B.9 A complaint alleging that the SLA's, CLA's, EIPA's, a public agency's, or an EIS provider's failure to implement a due process hearing decision shall be resolved by the SLA.

26 METHODS TO ENSURE PROVISION AND FINANCIAL RESPONSIBILITY FOR PART C OF IDEA

26.A POLICY

26.A.1 The SLA has entered into formal interagency agreement(s) with other state-level agencies involved in the ESIT, the state's Part C of IDEA early intervention program.

26.A.2 Each agreement

- A. Defines financial responsibility of each state agency for payment of EIS consistent

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with state law and Part C of IDEA; and

- B. Includes procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to ESIT. Such procedures shall include a mechanism for making a final determination that is binding upon the state agencies involved.

26.A.3 The SLA ensures the identification and coordination of all available resources for EIS within Washington State, including those from federal, state, local, and private sources, consistent with the Use of Funds and Payor of Last Resort requirements under Part C of IDEA.

26.A.4 The SLA is responsible for resolving individual disputes involving state level agency disagreements.

26.A.5 The SLA has adopted methods that

- A. Include a mechanism to ensure that no services that a child is entitled to receive under Part C of IDEA are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and
- B. Are consistent with the written funding policies adopted by Washington State under Part C of IDEA and include provisions the state has adopted regarding the use of public and private insurance to pay for Part C of IDEA services.

26.A.6 The SLA's method includes any additional components of the SLA's general supervision necessary to ensure effective cooperation and coordination among all public agencies involved in the provision of EIS, including monitoring of EIPAs and EIS providers.

26.B PROCEDURES

26.B.1 The agreement with each state agency shall

- A. Permit the state agency to resolve its own internal disputes, based on the agency's procedures that are included in the agreement, so long as the agency acts in a timely manner; and
- B. Include the process that the SLA will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

26.B.2 In the event that an interagency dispute arises related to this agreement or disputes about payments or other matters related to the state's ESIT program, the agencies may elect mediation to resolve the dispute or refer the dispute to the Dispute Board. In the

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event that mediation cannot resolve the dispute, the dispute shall be referred to the Dispute Board for timely resolution.

26.B.3 The Dispute Board will be appointed and convened as disputes arise. The following members will comprise the Dispute Board:

- A. DCYF shall appoint a member to the Dispute Board;
- B. Department of Social and Health Services (DSHS) shall appoint a member to the Dispute Board;
- C. Department of Health (DOH) shall appoint a member to the Dispute Board;
- D. Department of Services for the Blind (DSB) shall appoint a member to the Dispute Board;
- E. Health Care Authority (HCA) shall appoint a member to the Dispute Board;
- F. OSPI shall appoint a member to the Dispute Board; and
- G. The chair of the SICC is a member of the Dispute Board and will serve as the Board's Chair.

26.B.4 During a dispute, the SLA, shall

- A. Assign financial responsibility to an agency to the extent of the agency's responsibility to pay for services, in accordance with the payor of last resort provisions; or
- B. Pay for the service in accordance with the payor of last resort provisions.

26.B.5 If in resolving a dispute, it is determined that the assignment of fiscal responsibility was inappropriate, the SLA shall reassign responsibility to the appropriate agency.

26.B.6 Based on the outcome of the dispute resolution, the SLA shall make arrangements for reimbursement of any expenditures incurred by the agency originally assigned the fiscal responsibility, if appropriate.

26.B.7 The decision of the Dispute Board shall be final except if referred to the governor.

26.B.8 To the extent necessary to ensure compliance with the Dispute Board's decision, if any agency involved in the dispute is not satisfied with the Dispute Board's decision, the agency may request the decision be referred to the governor.

26.B.9 The SLA ensures that services are provided to eligible infants and toddlers and their families in a timely manner, pending resolution of dispute(s).