MARYLAND STATE DEPARTMENT OF EDUCATION
Preparing World-Class Students

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State Superintendent of Schools

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TO: Members of the State Board of Education

FROM: Lillian M. Lowery. Ed.D. lmlowery

DATE: October 31, 20122

SUBJECT: COMAR 13A.13.01 Provision of Early Intervention Services to Infants and Toddlers and Their Families (REPEAL & REPLACE)
COMAR 13A.13.02 Administration of Services for Infants and Toddlers and Their Families (NEW)
PERMISSION TO PUBLISH

PURPOSE:

The purpose of this action is to request permission to repeal and replace 13A.13.01, Provision of Early Intervention Services to Infants and Toddlers and Their Families, and create a new chapter 13A.13.02, Administration of Services for Infants and Toddlers and Their Families.

HISTORICAL BACKGROUND:

The Individuals with Disabilities Education Act (IDEA) was enacted on December 3, 2004. The U. S. Department of Education, Office of Special Education Programs (OSEP) released final regulations for the Early Intervention Programs under Part C of the IDEA on September 28, 2011. The IDEA requires states to review and revise existing State statutes, regulations, policies, and procedures to the extent necessary to ensure state policies and procedures are in compliance with federal statute. The State is out of compliance with federal law and will remain in that condition until revised regulations are enacted. The attached proposed regulations update current State regulations to reflect the provisions of the new federal regulations that are straightforward and not susceptible to conflicting interpretations.

To identify how State regulations need to be amended to comply with the IDEA Part C, the Division of Special Education/Early Intervention Services (DSE/EIS) engaged stakeholders in various activities to seek input. The Division of Special Education/Early Intervention Services conducted three webinars for directors of the Local Infants and Toddlers Programs. Next, the DSE/EIS brought together a group of stakeholders, including representatives of local school systems, public agencies, and parents to review current regulations against the requirements of the IDEA Part C. Please refer to Attachment I for a list of the Part C Regulations Stakeholder Workgroup. From February through May 2012, the Part C

Regulations Stakeholder Workgroup met four times to review regulations and to advise the DSE/EIS on the proposal. The State Interagency Coordinating Council (SICC) has also advised the DSE/EIS on proposed regulations. On May 31, 2012, the DSE/EIS also conducted an electronic survey to seek input from parents, families, early intervention service providers, and directors of the Local Infants and Toddlers Programs.

The General Education Provisions Act (GEPA) requires the Maryland State Department of Education to make proposed regulations available for public review for 60 days and to accept written public comment for at least 30 days during the 60 days. After publication in the Maryland Register, personnel within the DSE/EIS will conduct five regional public hearings to solicit additional public input on the proposals. Please refer to Attachment II that outlines the steps the DSE/EIS have taken and will continue to seek input for regulatory amendments.

EXECUTIVE SUMMARY:

The proposed revised COMAR 13A.13.01(Attachment III) and the proposed new COMAR 13A.13.02 (Attachment IV) will make State regulations consistent with federal regulations and clarify the responsibilities of local school systems and public agencies regarding the federal requirements to administer early intervention services to infants and toddlers and their families in accordance with federal regulations.

ACTION:

I am requesting permission to publish proposed COMAR 13A.13.01 and 13A.13.02. The tentative timeline is as follows:

MARYLAND REGISTER ISSUE DATE:	January 11, 2013
30-DAY OPEN COMMENT PERIOD ENDS:	February 20, 2013
60-DAY PUBLIC REVIEW PERIOD ENDS	March 12, 2013

LML/MEF:drr
Attachments

Attachment I

Division of Special Education/Early Intervention Services

Part C Regulations Stakeholder Workgroup Members

Name	Jurisdiction
Patty Adkins	Wicomico County Public Schools
Wendy Baber	Montgomery County Health Department
Charles Baugh	Baltimore City Health Department
Diane Bonanni	Prince George's County Health Department
Paula Boykins	Baltimore County Public Schools
Sarah Burton	Prince George's Public Schools
Amy Cropp	Montgomery County Public Schools
Debbie Crosby	St. Mary's County Public Schools
Nicole Elliott	Howard County Public Schools
Ed Feinberg	Anne Arundel County Public Schools
Michelle Goldstein	Montgomery County Public Schools
Monica Grant	Frederick County Health Department
Miriam Greenleaf-Miller	Baltimore City Public Schools
Pam Hall	Parent
Brenda Hussey-Gardner	Chair, State Inter agency Coordinating Council (SICC)
Charlene Iannone-Campbell	Baltimore City Public Schools
Wendy Kirk	Anne Arundel County Public Schools
Rachel London	Parent
Anita Mandis	MSDE
Ellen Meyer	Anne Arundel County Public Schools
Pam Miller	MSDE
Brian Morrison	MSDE
Amy Sargent	Johns Hopkins University, Center for Technology in Education
Thomas Stengel	MSDE
Anita Stevens	St. Mary's Health Department
Dan Szcepaniak	MSDE
Nancy Vorobey	MSDE

Attachment II

MARYLAND STARTE DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION/EARLY INTERVENTION SERVICES

COMAR 13A.13.01 and 13A.13.02
Action Steps Timeline Worksheet

ACTION	DUE DATE	COMPLETION
Enactment of IDEA 2004	12/3/2004	X
Date IDEA in effect	07/01/2005	X
Federal Register Release of IDEA Part C Regulations	09/28/2011	X
IDEA Part C Regulations Stakeholder Workgroup	02/24/2012	X
IDEA Part C Regulations Webinar	03/22/2012	X
IDEA Part C Regulations Stakeholder Workgroup	03/24/2012	X
IDEA Part C Regulations Stakeholder Workgroup	04/24/2012	X
IDEA Part C Regulations Webinar	05/08/2012	X
IDEA Part C Regulations Stakeholder Workgroup	05/29/2012	X
IDEA Part C Survey	May 31, 2012	X
IDEA Part C Regulations Webinar	06/19/2012	X
Division Review	06/2012 – 10/2012	X
Review of Office of the Attorney General	10/10-18/2012	X
Submit Materials to the State Board of Education	10/19/2012	X
State Board of Education Meeting – Request Permission to Publish	10/31/12	X
File a copy of the Proposed Amendments with the Division of Business and Economic Development (DBED)		
Approval of DBED		
Send to Administrative, Executive, and Legislative Review Committee (AELR)		
Send to the Division of State Documents (DSD) for		

Attachment II

MARYLAND STARTE DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION/EARLY INTERVENTION SERVICES

Publication in the Maryland Register		
Mailing of Notice RE: Maryland Register Publication, Methods of Comment, Dates of Public Hearing	12/15/12	
Proposed Maryland Register Publication Date	01/11/2013	
Public Hearing – January 24, 2013, 7:00 p.m. – 9:00 p.m., Montgomery County Childcare Resource Center, 332 West Edmonston Drive, Rockville, MD 20852	01/24/2013	
Public Hearing – January 29, 2013, 7:00 p.m. – 9:00 p.m., Charles County Public Schools, F. B. Gwynn Center, 5998 Radio Station Road, La Plata, MD 20646	01/29/2013	
Proposed Public Hearing – January 31, 2013, 7:00 p.m. – 9:00 p.m., Washington County Public Schools, 820 Commonwealth Avenue, Hagerstown, MS 21740	01/31/2013	
Proposed Public Hearing – February 5, 2013, 7:00 p.m. – 9:00 p.m., Talbot County Education Center, 12 Magnolia Street, Easton, MD 21601	02/05/2013	
Proposed Public Hearing – February 12, 2013, Baltimore County Public Schools, Ridge Ruxton School, 6916 North Charles Street, Towson, MD 21204	02/12/2013	
Comment Period Ends	02/20/2013	
Review and Analysis of Comments	02/21/2013 – 03/1/2013	
Review and Input of Revisions for Clarity from the Office of the Attorney General	03/4/2013 – 03/11/2013	
Presentation to the State Board of Education – Request Permission to Adopt	03/26/2013	
Submission to Division of State Documents		
Publication in the Maryland Register in Final Form		
Proposed Effective Date of Regulations (Regulations are effective 10 days after publication in the Maryland Register in Final Form unless another effective data is specifically specified)	07/01/2013	

Title 13A STATE BOARD OF EDUCATION

Subtitle 13 MARYLAND INFANTS AND TODDLERS PROGRAM

Chapter 01 Provision of Early Intervention Services to Infants and Toddlers and Their Families

Authority: Education Article, §8-416, Annotated Code of Maryland Federal Regulatory Reference: 34 CFR 99, 300, 303

.01 Purpose.

The purpose of this chapter is to implement Part C of the Individuals with Disabilities Education Act (IDEA), 34 CFR 303, and Education Article, Title 8, Subtitle 4, Annotated Code of Maryland, which assure the provision of services for all eligible infants and toddlers, birth until the beginning of the school year following the child's fourth birthday, and their families, in accordance with the child's Individualized Family Service Plan (IFSP).

.02 Scope.

This chapter applies to the Department and other State or local public agencies that participate in the local interagency system of services that provide early intervention services to eligible infants and toddlers, birth until the beginning of the school year following the child's fourth birthday, and their families, in accordance with the child's Individualized Family Service Plan (IFSP), consistent with the Act and 34 CFR §303.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means the Individuals with Disabilities Education Act as amended, 20 U.S.C. §1400 et seq.

(2) "Annual evaluation" means the meeting conducted at least once a year to evaluate a child's IFSP and to revise its provisions, as appropriate.

(3) "Appropriate professional requirements" means entry-level requirements for personnel providing early intervention services that:

(a) Are based on the highest requirements in the State applicable to the profession or discipline in which a person is providing early intervention services; and

(b) Establish suitable qualifications for personnel providing early intervention services to eligible children and their families, who are served by State, local, and private agencies.

(4) "Assessment" means ongoing procedures used by qualified personnel throughout the period of a child's eligibility to identify the:

(a) Child's unique strengths and needs;

(b) Services appropriate to meet those needs;

(c) Resources, priorities, and concerns of the family; and

(d) Supports and services necessary to enhance the family's capacity to meet the developmental needs of the child.

(5) Assistive Technology Device.

(a) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

(b) "Assistive technology device" does not include:

(i) A medical device that is surgically implanted, including a cochlear implant; or

(ii) The optimization, maintenance, or replacement of that device.

(6) Assistive Technology Service.

(a) "Assistive technology service" means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

(b) "Assistive technology service" includes:

(i) Evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

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

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

(v) Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and

(vi) Training or technical assistance for professionals, including individuals providing education and 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.

(7) Audiology.

(a) "Audiology" means services which include:

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

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

(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

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

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

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

(8) Consent.

(a) "Consent" means a parent:

(i) Has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;

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

(iii) Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(b) "Consent" includes consent given to an action before a parent revokes consent, so that revocation is not retroactive and does not negate an action that occurred after the consent was given and before the consent was revoked.

(9) "Day" means a calendar day unless otherwise specified.

(10) "Department" means the Maryland State Department of Education.

(11) "Developmental Delay" means the presence of:

(a) A 25 percent delay, as measured and verified by appropriate diagnostic instruments and procedures, in one or more of the following developmental areas:

(i) Cognitive development,

(ii) Physical development, including vision and hearing,

(iii) Communication development,

(iv) Social or emotional development, or

(v) Adaptive development; or

(b) Atypical development or behavior, which:

(i) Is demonstrated by abnormal quality of performance and function in one or more of the above specified developmental areas, or

(ii) Interferes with current development, and is likely to result in subsequent delay (even when diagnostic instruments or procedures do not document a 25 percent delay); or

(c) A diagnosed physical or mental condition that has a high probability of resulting in developmental delay, with examples of these conditions including:

(i) Chromosomal abnormalities,

(ii) Genetic or congenital disorders,

(iii) Severe sensory impairments,

(iv) Inborn errors of metabolism,

(v) Disorders reflecting disturbance of the development of the nervous system,

(vi) Congenital infections,

(vii) Disorders secondary to exposure to toxic substances, including fetal alcohol syndrome, and

(viii) Severe attachment disorders.

(12) "Duration" means the period of time over which services will be provided, such as when the child is expected to achieve the results or outcomes in his or her IFSP.

(13) "Early intervention record" means any personally identifiable information, as defined in §B(40) of this regulation, about a child or the child's family generated by the early intervention system which pertains to:

(a) Evaluation and assessment;

(b) Development of an individualized family service plan, or

(c) The delivery of early intervention services.

(14) Early Intervention Services (EIS).

(a) "Early intervention services" means continuous developmental services designed to meet the needs of an infant or toddler with a disability and the needs of the family to appropriately assist in the child's development that:

(i) Are selected in collaboration with the parents,

(ii) Meet the standards of the State,

(iii) Are provided at no cost, and

(iv) Are under public supervision by qualified personnel.

(b) "Early intervention services" include, but are not limited to:

(i) Assistive technology;

(ii) Audiology;

(iii) Family training, counseling, and home visits;

(iv) Health services;

(v) Medical services for diagnostic or evaluation purposes;

(vi) Nursing services;

(vii) Nutrition services;

(viii) Occupational therapy;

(ix) Physical therapy;

(x) Psychological services;

(xi) Service Coordination;

(xii) Sign language and cued language services;

(xiii) Social work services;

(xiv) Special instruction;

(xv) Speech-language pathology;

(xvi) Transportation; and

(xvii) Vision services.

(15) Early Intervention Service (EIS) Provider.

(a) "Early intervention service provider" means a public, private, or nonprofit entity or individual that provides early intervention services, consistent with 34 CFR §303.12.

(b) "Early intervention service provider" may include the Department as the lead public agency responsible for providing early intervention services to infants and toddlers with disabilities in the State.

(16) "Elementary School" means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education.

(17) "Eligible child" or "eligible children" means infants or toddlers with a disability as defined in §B(28) of this regulation.

(18) Evaluation.

(a) "Evaluation" means the procedures used by qualified personnel to determine a child's initial and continuing eligibility for early intervention services as an infant or toddler with a disability as defined in §B(28) of this regulation.

(b) "Evaluation" includes determining the child's status in each of the following developmental areas:

(i) Cognitive development;

(ii) Physical development, including vision and hearing;

(iii) Communication development;

(iv) Social or emotional development; and

(v) Adaptive development.

(19) "Extended School Year" (ESY) means the individualized extension of specific special education and related services as defined in COMAR 13A.05.01.03B(26).

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

(21) "Free appropriate public education" (FAPE) has the meaning stated in 34 CFR §303.15 and COMAR 13A.05.01.03B(27).

(22) "Frequency" means the rate at which services are provided, including the number of sessions over a particular period of time, such as daily, weekly, or monthly.

(23) Health Services.

(a) "Health services" means services necessary to enable a child to benefit from other early intervention services during the time the child is receiving early intervention services, consistent with 34 CFR §303.16.

(b) "Health services" include, but are not limited to:

(i) Clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or osteotomy collection bags, and other health services; and

(ii) Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

(c) "Health services" do not include:

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

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

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

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

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

(24) "Homeless children" has the meaning stated in section 725 of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq. for homeless children and youths.

(25) "Include" means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

(26) "Individualized education program (IEP)" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with 34 CFR §§300.320 – .324 and COMAR 13A.05.01.08 and .09.

(27) Individualized Family Service Plan (IFSP).

(a) "Individualized family service plan" means a written plan for providing early intervention and other services to an eligible child and the child's family, consistent with 34 CFR §303.344 that is:

(i) Based on the multidisciplinary evaluation and assessment of the child, and the assessment of the child's family, in accordance with 34 CFR §303.321;

(ii) Written to include the content specified in 34 CFR §300.344;

(iii) Implemented as soon as possible, but not more than 30 days following receipt of parental consent, consistent with 34 CFR §303.420; and

(iv) Developed jointly by the family and appropriate qualified personnel involved in the provision of early intervention services, in accordance with 34 CFR §§303.342, 303.343, and §303.345;

(28) Infant or Toddler with a Disability.

(a) "Infant or toddler with a disability" means a child, birth through 2 years old, who is eligible for early intervention services, as documented by appropriate qualified personnel, as having a developmental delay as defined by §B(11) of this regulation, or

(b) A child, three years old until the beginning of the school year following the child's fourth birthday, who:

(i) Previously received early intervention services, in accordance with Part C of the Act and this

chapter; and

(ii) Is identified as a child with a developmental delay or disability, consistent with 34 CFR §300.8 and COMAR 13A.05.01.06.

(29) "Intensity" means whether a service is provided on an individual or group basis.

(30) "Interim service coordinator" means the individual designated at the single point of entry to assist the referred child and family through the initial multidisciplinary evaluation and assessment and individualized family service plan process.

(31) "Length" means the length of time a service is provided during each session of that service.

(32) "Local governing authority" means the local elected official or officials with executive authority in each jurisdiction.

(33) "Local lead agency" means the public agency designated by the local governing authority in each county and Baltimore City to administer the interagency system of early intervention services under the direction of the Department, in accordance with Education Article, §8-416, Annotated Code of Maryland.

(34) "Local school system" means any of the 24 public school systems in the State responsible for providing public elementary or secondary education.

(35) "Location" means the actual place or places where a service will be provided.

(36) "Maryland Infants and Toddlers Program" means the program within the Department responsible for the planning, supervision, monitoring, and technical assistance for the implementation of Part C of the Act and this chapter.

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

(38) "Method" means how a service is provided.

(39) "Multidisciplinary" means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and the development of the IFSP.

(40) Native Language.

(a) "Native language" means the language or mode of communication normally used by an individual who is limited English proficient, or the language normally used by the parent of the child, consistent with 34 CFR §303.25.

(b) "Native language" includes the language of the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(c) "Native language" includes the mode of communication that is normally used by an individual:

(i) Who is blind or visually impaired,

(ii) Who is deaf or hard of hearing, or

(iii) With no written language.

(41) "Natural environments" means settings that are natural or typical for a same-aged infant or toddler without a disability, including home or community settings, consistent with 34 CFR §303.126.

(42) Nursing Services.

(a) "Nursing services" means services which include the:

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

(ii) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(iii) Administration of medications, treatments, and regimens prescribed by a licensed physician.

(43) "Nutritional services" means services which include:

(a) Conducting individual assessments in:

(i) Nutritional history and dietary intake such as anthropometric, biochemical, and clinical variables;

(ii) Feeding skills and feeding problems; and

(iii) Food habits and food preferences,

(b) Developing and monitoring appropriate plans to address the nutritional needs of eligible children based on the findings in (a) of this subsection; and

(c) Making referrals to appropriate community resources to carry out nutrition goals.

(44) Occupational Therapy.

(a) "Occupational therapy" means services to address the functional needs of a child related to:

(i) The performance of self-help skills,

(ii) Adaptive behavior and play, or

(iii) Sensory, motor, and postural development.

(b) "Occupational therapy" is designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:

(i) Identification, assessment, and intervention;

(ii) Adaptations of the environment;

(iii) Selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iv) Prevention or minimization of the impact of:

a. Initial or future impairment,

b. Delay in development, or

c. Loss of functional ability.

(45) Parent.

(a) "Parent" means:

(i) A biological or adoptive parent;

(ii) A guardian authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child;

(iii) 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;

(iv) A foster parent with whom the student lives, if the foster parent has been granted limited guardianship for educational decision-making purposes by the court that has placed the child in foster care; or

(v) A surrogate parent who has been appointed in accordance with 34 CFR §303.422.

(b) "Parent" does not include:

(i) An EIS provider or public agency responsible for the provision of any service to a child or any family member of the child; or

(ii) The State, if the child is a ward of the State.

(46) Participating Agency.

(a) "Participating agency" means an individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement Part C of the Act and the regulations in this chapter with respect to a particular child.

(b) "Participating agency" includes the lead agency and EIS providers of services including service coordination, evaluations and assessments.

(c) "Participating agency" does not include primary referral sources, or public agencies that act solely as funding sources for Part C services.

(47) "Periodic review" means the multidisciplinary review of the IFSP, conducted every 6 months, or more frequently if conditions warrant, or at the family's request.

(48) "Personally identifiable information" means information that includes:

(a) The name of:

(i) The child,

(ii) The child's parent, or

(iii) Other family member;

(b) The address of the child;

(c) A personal identifier such as the child's Social Security number or child identification number; and

(d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(49) Physical Therapy Services.

(a) "Physical therapy services" means services to address the promotion of sensorimotor function through enhancement of:

(i) Musculoskeletal status,

(ii) Neurobehavioral organization,

(iii) Perceptual and motor development,

(iv) Cardiopulmonary status, or

(v) Effective environmental adaptation.

(b) "Physical therapy services" include:

(i) Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

(50) Primary Referral Sources.

(a) "Primary referral sources" means an individual, agency, entity, or institution that may suspect an infant or toddler as having a developmental delay who may benefit from EIS.

(b) "Primary referral sources" include:

(i) Parents;

(ii) Physicians;

(iii) Child care programs;

(iv) Domestic violence shelters and agencies;

(v) Early learning programs;

(vi) Health care clinics and providers;

(vi) Homeless family shelters;

(vii) Hospitals, including prenatal and postnatal care facilities;

(x) Public agencies;

(xi) Public health facilities; and

(xii) Staff in the State child welfare system.

(51) "Profession" means a specific occupational category that:

(a) Provides early intervention services to eligible children and their families;

(b) Has been established or designated by the State; and

(c) Has a required scope of responsibility and degree of supervision.

(52) "Psychological services" means services that 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

(d) Planning and managing a program of psychological services including:

(i) Psychological counseling for children and parents,

(ii) Family counseling,

(iii) Consultation on child development,

(iv) Parent training, or

(v) Education programs.

(53) "Public agency" means:

(a) The lead agency; or

(b) Any other agency or political subdivision.

(54) "Qualified personnel" means persons who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the personnel are conducting evaluations and assessments or providing early intervention services, including:

(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 dieticians;

(j) Social workers;

(k) Special educators, including teachers of children with hearing impairments and teachers of children with visual impairments;

(l) Speech and language pathologists;

(m) Vision specialists, including ophthalmologists and optometrists; and

(n) Other services and personnel as defined in §B(15) and §B(58) of this regulation.

(55) "Scientifically based research" has the meaning given in the term section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended.

(56) Screening.

(a) "Screening" means procedures or activities carried out by, or under the supervision of, the local lead agency or EIS provider to identify infants and toddlers suspected of having a disability and in need of early intervention services, at the earliest possible age, consistent with 34 CFR §303.320.

(b) "Screening" includes the administration of appropriate instruments by qualified personnel.

(57) Service Coordination.

(a) "Service coordination" means activities to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State's system of early intervention services.

(b) "Service coordination" includes:

(i) Assisting families in gaining access to, and coordinating the provision of, the early intervention services;

(ii) Coordinating the performance of evaluations and assessments;

(iii) Facilitating and participating in the development, review, and evaluation of individualized family service plans;

(iv) Coordinating, facilitating, and monitoring the delivery of service across agencies to ensure that the services are provided in a timely manner;

(v) Conducting follow-up activities to determine that appropriate early intervention services are provided;

(vi) Informing families of their rights and procedural safeguards;

(vii) Coordinating the funding sources for early intervention services;

(viii) Facilitating the development of a transition plan to preschool, school, or other services, if appropriate;

(ix) Informing families of the availability of advocacy services;

(x) Coordinating with medical and health providers; and

(xi) Assisting families to get required immunizations for eligible children, in compliance with COMAR 10.06.04.

(58) "Service coordinator" means the individual designated in the IFSP to carry out service coordination activities.

(59) Sign Language and Cued Language Services.

(a) "Sign language and cued language services" means teaching:

(i) Sign language;

(ii) Cued language; or

(iii) Auditory oral language.

(b) "Sign language and cued language services" includes providing:

(i) Oral transliteration services;

(ii) Sign language interpretation; or

(iii) Cued language interpretation.

(60) "Single point of entry" means the contact point in the local jurisdiction designated by each

local lead agency to accept referrals from primary referral sources and others who suspect a developmental delay in an infant or toddler.

(61) "Social work services" means services that may include:

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

(b) Preparing a psychosocial developmental assessment of the child within the family context;

(c) Providing individual and family-group counseling with parents and other family members and appropriate social skill-building activities with the child and parents;

(d) Working with those problems in a child's and family's living situation, such as home, community, and any center where early intervention services are provided that affect the child's maximum utilization of early intervention services; and

(e) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

(62) "Special instruction" means services that may include:

(a) The design of learning environments and activities that promote the child'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 child's individualized family service plan;

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

(d) Working with the child to enhance the child's development.

(63) "Speech-language pathology" means services which may include:

(a) Identification of children with communicative, language, or oral pharyngeal disorders and delays in development of communication skills;

(b) Diagnosis and appraisal of specific speech language disorders and delays;

(c) Referral for medical or other professional attention necessary for the habilitation or rehabilitation of communicative, language, or oral pharyngeal disorders and delays in development of communication skills; and

(d) Provision of habilitative, rehabilitative, or preventative services for communicative or oral pharyngeal disorders and delays in development of communication skills.

(64) "Transportation" means the cost of travel that are necessary to enable an eligible child and the child's family to receive early intervention services and includes mileage, travel by taxi, common carrier, or other means, and other related costs, such as tolls and parking expenses.

(65) Vision Services.

(a) "Vision services" means services that include the evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(b) "Vision services" include referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(c) "Vision services" include:

(i) Communication skills training,

(ii) Orientation and mobility training for all environments,

(iii) Visual training,

(iv) Independent living skills training, and

(v) Additional training necessary to activate visual motor abilities.

(66) Ward of the State.

(a) "Ward of the State" means a child:

(i) For whom a State or county agency or official has been appointed legal guardian, or

(ii) Who has been committed by a court of competent jurisdiction to the legal custody of a State or county agency or official with the express authorization that the State or county agency or official make educational decisions for the child.

(b) "Ward of the State" does not include a foster child who has a foster parent who meets the definition of a parent as defined in §B(45) of this regulation.

.04 Referral and Screening.

A. Referral.

(1) A local lead agency shall identify a single point of entry which shall:

(a) Coordinate all major child find efforts, consistent with 34 CFR §303.302 and COMAR 13A.13.02.04B; and

(b) Be available for use by primary referral sources and others who suspect developmental delay in an infant or toddler.

(2) A local lead agency shall require the referral of a child three years old or younger who:

(a) Is the subject of a substantiated case of child abuse or neglect; or

(b) Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

(3) A local lead agency shall seek parental consent for referral of a child three years old or younger who directly experiences a substantiated case of trauma due to exposure of violence, as defined in section 320 of the Family Violence Prevention and Services Act, 42 U.S.C. 10401, et seq.

(4) A local lead agency shall ensure primary referral sources refer an infant or toddler as soon as possible, but in no case more than seven days after the child has been identified.

B. Screening Procedures.

(1) A local lead agency or EIS provider may screen a child three years old or younger to determine whether the child is suspected of having a disability, consistent with 34 CFR 303.320.

(2) If a local lead agency or EIS provider proposes to screen a child, it shall:

(a) Provide the parent notice of the intent to screen the child to identify whether the child is suspected of having a disability, consistent with 34 CFR §303.421;

(b) Provide the parent a description of the parent's right to request an evaluation at any time during the screening process, in accordance with 34 CFR §303.32; and

(c) Obtain consent before conducting the screening procedures, in accordance with as required in 34 CFR §303.420(a)(1) and Regulation .11 of this chapter.

(3) If the result of screening or other available information indicates that the child is suspected of having a disability, the local lead agency shall:

(a) Provide the parents notice of the results consistent with 34 CFR §303.421 and Regulation .10 of this chapter;

(b) Obtain parental consent for evaluation and assessment consistent with 34 CFR §303.420 and Regulation .11 of this chapter; and

(c) Conduct an evaluation and assessment of the child in accordance with 34 CFR §303.321 and Regulation .05 of this chapter; or

(4) If the result of screening or other available information indicates no suspicion of a disability, the local lead agency or EIS provider shall provide the parents notice of that determination and the parent's right to request an evaluation, consistent with 34 CFR §303.421.

(5) Parents may request and consent to an evaluation at any time during the screening process.

(6) The evaluation of the child must be conducted within 45 days from the date of referral, even if the local lead agency or EIS provider has determined the child is not suspected of having a disability in accordance with §B(4) of this regulation.

(7) A local lead agency is not required to provide:

(a) An evaluation of the child unless the child is suspected of having a disability or the parent requests an evaluation; or

(b) Early intervention services unless the child is determined to be an infant or toddler with a disability as defined in 34 CFR §303.21 and Regulation .03B(28) of this chapter.

.05 Evaluation and Assessment.

A. Evaluation Procedures.

(1) A local lead agency shall ensure:

(a) A child receives a timely, comprehensive, multidisciplinary evaluation, consistent with 34 CFR §§303.321,303 .322, and 303.420(a)(2);

(b) A parent provides consent before conducting each evaluation and assessment of a child, consistent with 34 CFR §303.321(1) and Regulation .11 of this chapter; and

(c) Evaluations are administered by qualified personnel.

(2) In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility.

(3) Procedures shall include:

(i) Administering an evaluation instrument;

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

(iii) Identifying the child's level of functioning in each of the developmental areas identified in Regulation .03B(11) of this chapter;

(iv) Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators to understand the full scope of the child's unique strengths

and needs, if necessary, as required in 34 CFR §303.420(a)(1); and

(v) Reviewing medical, educational, and other records.

(4) Evaluations and assessments of a child must be conducted in the native language of the child, unless clearly not feasible to do so.

B. Nondiscrimination. Local lead agencies shall conduct nondiscriminatory evaluation and assessment of children and families, consistent with 34 CFR §303.321(a)(4).

C. Written Report.

(1) The written report shall include:

(a) A statement of the child's current health status based on a review of pertinent records and medical history;

(b) A statement which describes the child's levels of functioning in each developmental area and the dates of the evaluation and assessment procedures;

(c) A statement of criteria, including tests, evaluation materials, and informed clinical opinion; and

(d) The signatures and titles of the qualified personnel who administered the evaluation and assessment.

(2) Written reports of evaluations and assessments described in §B of this regulation shall be included in the child's early intervention record to:

(a) Document the results of evaluations and assessments conducted by qualified personnel; and

(b) Determine initial eligibility of a child referred for evaluation.

D. Individuals who may have the opportunity to participate in the multidisciplinary evaluation process may include:

(1) The child's parent or parents;

(2) Other family members; and

(3) The interim service coordinator.

E. Eligibility Determination.

(1) Qualified personnel directly involved in the diagnosis of the child or in conducting the evaluation and assessment of the child shall determine the child's eligibility for early intervention services by comparing evaluation results with the criteria for an infant or toddler with a disability

as defined in Regulation .03B(28) of this chapter.

(2) Qualified personnel shall use informed clinical opinion when conducting an evaluation and assessment of a child.

(3) A local lead agency shall ensure informed clinical opinion:

(a) May be used as an independent basis to establish a child's eligibility for the EIS when the other instruments do not establish eligibility; and

(b) May not be used to negate the results of evaluation instruments used to establish eligibility.

(4) A written statement shall document the eligibility decision and be included in the child's early intervention record. The written statement shall include:

(a) The names and titles of the qualified personnel determining the child's eligibility;

(b) The date of the determination; and

(c) The basis for eligibility determination.

(5) A child's medical and other records may be used to establish eligibility without conducting an evaluation of the child if:

(a) The records indicate that the child's level of functioning in one or more developmental areas constitutes a developmental delay; or

(b) The child otherwise meets the criteria for an infant or toddler with a disability as defined in Regulation .03B(28) of this chapter.

(6) If the local lead agency determines a child is not eligible, the local lead agency shall provide the parent with prior written notice consistent with 34 CFR §303.421, including the parent's right to dispute the eligibility determination through dispute resolution mechanisms in accordance with 34 CFR §303.430 and Regulation .14 of this chapter.

F. Assessments.

(1) If a child is eligible for EIS as an infant or toddler with a disability, the child and family shall have:

(a) A multidisciplinary assessment of the unique strengths and needs of the child and the identification of services appropriate to meet those needs; and

(b) A family-directed assessment of concerns, priorities, and resources of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child. These assessments may occur simultaneously with the

evaluation.

(2) Family assessments shall be conducted in the native language of the family member being assessed, unless clearly not feasible to do so.

(3) The assessment of the child shall include:

(a) A review of the results;

(b) Personal observations of the child; and

(c) The identification of the child's needs in each of the developmental areas.

(4) The family assessment shall:

(a) Be voluntary for each family member participating in the assessment;

(b) Be based on information obtained through:

(i) An assessment tool, and

(ii) An interview with those family members who elect to participate in the assessment; and

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

.06 Individualized Family Service Plan (IFSP) Team.

A. IFSP Team Members.

(1) A local lead agency shall ensure the initial IFSP team meeting and the annual IFSP team meeting to evaluate the IFSP of an infant or toddler with a disability shall be multidisciplinary and include the following participants:

(a) The parents of the child;

(b) The service coordinator who:

(i) Has worked with the family since the initial referral of the child, or

(ii) Was designated by the public agency to be responsible for implementation of the IFSP;

(c) Individuals directly involved in conducting the evaluations and assessments in accordance with Regulation .05 of this chapter;

(d) Individuals who will provide services to the child or the family, as determined appropriate;

(e) Other family members, as requested by the parent, if feasible to do so; and

(f) An advocate or individual outside the family, if the parent requests that the individual participate.

(2) At a minimum, the IFSP team shall include:

(a) The parent; and

(b) Two or more individuals from separate professions.

(3) One of the individuals listed in §A(2)(b) of this regulation shall be the child's service coordinator.

(4) If an individual listed in §A(1) of this regulation is unable to attend a meeting, arrangements shall be made for the individual's involvement through other means, including:

(a) Participating in a telephone conference call;

(b) Having a knowledgeable authorized representative attend the meeting; or

(c) Making pertinent records available at the meeting.

B. IFSP Team Meetings.

(1) The IFSP team meeting shall be conducted:

(a) In a setting and at a time that is convenient to the family; and

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

(2) Written notification of the IFSP team meeting shall be provided to the family and other participants early enough before the meeting date to ensure invited individuals will be able to attend.

.07 Development and Review of the IFSP.

A. The initial meeting to develop an IFSP for a child evaluated for the first time and determined to be eligible shall be conducted within the 45 days of the referral consistent with 34 CFR §303.310 and Regulation .05 of this chapter.

B. Maryland IFSP Process.

(1) The Maryland Infants and Toddlers Program shall provide each local lead agency electronic

access to the Maryland IFSP.

(2) Each local lead agency shall:

(a) Use the Maryland IFSP, consistent with 34 CFR §303.344; and

(b) Ensure the development of a child's initial IFSP, in accordance with §A of this regulation, at an IFSP team meeting unless:

(i) The child or parent is unavailable to complete the screening, the initial evaluation, the initial assessment of the child and family, or the initial IFSP due to exceptional family circumstances; or

(ii) 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 local lead agency or EIS provider to obtain parental consent.

(3) In the event the circumstances described in §B(2)(b) of this regulations exist, the local lead agency shall:

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

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

(c) Develop and implement an interim IFSP to the extent appropriate and consistent with §B of this regulation.

(d) Provide for the signature of the parent and other parties as required on the Maryland IFSP document;

(e) Ensure that early intervention services are provided consistent with 34 CFR §§303.13(a)(8), 303.26, and 303.344:

(i) In natural environments, including the home and community settings in which children without disabilities participate, to the maximum extent appropriate; or

(ii) In a setting other than the natural environment that is most appropriate, as determined by the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment.

(f) Implement the EIS as specified in the IFSP as soon as possible, but not later than 30 days from the date of parent consent, except as provided under 34 CFR §303.345; and

(g) Ensure the provision of service coordination to an eligible child and the child's family, consistent with 34 CFR §§303.12 and 303.31, that includes the:

(i) Designation of a service coordinator from the profession most immediately relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities, and

(ii) Assignment of responsibility for the implementation of the IFSP and coordination with other agencies and persons.

(h) Identify the actions to be taken to support the transition of children receiving early intervention services to preschool or other appropriate services, consistent with 34 CFR §§303.209, .344(h), and Regulation .07 of this chapter .

B. Interim IFSP.

(1) The EIS for an eligible child and the child's family may commence before the completion of the evaluation and assessments, as described in Regulation .05 of this chapter, if:

(a) It is determined that EIS are needed immediately by the child and the child's family;

(b) Parental consent is obtained; and

(c) An interim IFSP is developed that includes the name of the service coordinator who will be responsible for:

(i) Implementing the interim IFSP; and

(ii) Coordinating with other agencies and persons.

(2) An evaluation and assessment shall still be completed within the 45 days of the referral consistent with 34 CFR §303.310 and Regulation .05 of this chapter.

C. Periodic IFSP Review.

(1) Periodic review shall provide for the participation of individuals identified in Regulation .06A of this chapter.

(2) When necessary, provisions shall be made for the participation of other representatives identified in Regulation .06A of this chapter.

(3) A periodic review of an IFSP for a child and the child's family shall be conducted every 6 months, or more frequently if conditions warrant, or if the family requests such a review to determine:

(a) The degree to which progress toward achieving the outcomes is being made; and

(b) Whether modification or revision of the outcomes is necessary.

(4) The periodic review may occur:

(a) At an IFSP team meeting; or

(b) By another means that is acceptable to the parents and other participants.

C. Annual IFSP Review.

(1) An IFSP team meeting shall be conducted at least annually to evaluate the IFSP for a child and the child's family, and to revise the provisions of the IFSP, as appropriate.

(2) During the annual IFSP team meeting, the results of any current evaluations conducted in accordance with Regulation .05 in this chapter and other information available from the ongoing assessment of the child and family shall be used to determine what EIS are needed and what EIS will be provided.

.08 Individualized Family Service Plan (IFSP) Document

A. The IFSP shall include:

(1) A statement of the child's present levels of physical development, including:

(a) Vision,

(b) Hearing,

(c) Health status,

(d) Cognitive development,

(e) Communication development,

(f) Social or emotional development, and

(g) Adaptive development;

(2) A statement of the family's concerns, priorities, and resources related to enhancing the development of the child as identified through assessment, with the concurrence of the family;

(3) A statement of the measurable results or outcomes considered developmentally appropriate and expected to be achieved for the child and family, consistent with 34 CFR §303.344(c), including:

(a) Preliteracy,

(b) Numeracy,

(c) Language skills, and

(d) Criteria, procedures, and timeline used to determine:

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

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

(4) The projected date for the initiation of each early intervention service;

(5) The anticipated duration of each service;

(6) The name of the service coordinator from the profession most relevant to the child's or family's needs who is responsible for:

(a) Implementing the early intervention services identified in a child's IFSP,

(b) Transition services, and

(c) Coordination with other agencies and individuals;

(7) The steps and services to be taken to support the smooth transition of the child from EIS to:

(a) Preschool services, in accordance COMAR 13A.05.01, to the extent that those services are appropriate;

(b) The Extended IFSP Option, consistent with 34 CFR §303.209; or

(c) Other appropriate services.

(8) The steps to support the smooth transition shall include:

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

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

(c) Confirmation that:

(i) Child find information about the child has been transmitted to the local school system or other

relevant agency, in accordance with 34 CFR §303.209(b); and

(ii) With parental consent, if required under 34 CFR §303.414, transmission of additional information needed by the local school system to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and family and most recent IFSP; and

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

B. EIS Providers.

(1) EIS providers shall:

(a) Participate in the development of an initial IFSP within 45 days from receipt of referral for an eligible child and the child's family;

(b) Implement and conduct periodic reviews and annual evaluations of a child's IFSP consistent with 34 CFR §§303.342 – 303.343 and established local policies and procedures;

(c) Participate in the ongoing multidisciplinary assessment of the child and the family-directed assessment of the resources, priorities and concerns of the family, as it relates to the needs of the child in the development of integrated outcomes for the IFSP;

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

(e) Consult with and train parents and others regarding the provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

C. IFSP Services.

(1) The IFSP shall address the needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the child's development, as identified by the IFSP team, in one or more of the following areas, including:

(i) Physical development;

(ii) Cognitive development;

(iii) Communication development;

(iv) Social or emotional development;

(v) Adaptive development.

(2) The IFSP shall include, to the extent practicable a statement of the specific early intervention services based on peer-reviewed research that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in §A(3) of this regulation, including:

(a) The length, duration, frequency, intensity, and method of delivering the early intervention service, as defined in Regulation.03B of this chapter;

(b) A statement that an early intervention service is provided on a year-round basis in the natural environment of the child or service, to the maximum extent appropriate, or a justification as to why an early intervention service will not be provided in the natural environment;

(c) The determination of the appropriate setting for providing an early intervention service, including any justification for not providing a particular early intervention service in the natural environment shall be:

(i) Made by the IFSP Team,

(ii) Consistent with the provisions of 34 CFR §§303.13(a)(8), 303.26, and 303.126, and

(iii) Based on the child's outcomes identified by the IFSP Team;

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

(e) The agency fiscally responsible for the service.

(3) To the extent appropriate, the IFSP shall:

(a) Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded in accordance with Part C of the Act; and

(b) Include a description of the steps the service coordinator or family may take to assist the child and family in securing the services above, if those services are not currently being provided.

(4) A public agency or EIS provider who has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP.

(5) A public agency or EIS provider cannot be held accountable if a child does not achieve the growth projected in the child's IFSP, consistent with 34 CFR §303.346.

(6) The local lead agency shall ensure appropriate early intervention services are based on scientifically based research and are available to infants and toddlers with disabilities and their families, including infants and toddlers with disabilities who are homeless and their families.

.09 Transition.

A. Notification to the Local School System.

(1) The Maryland Infants and Toddlers Program shall inform a local school system of potentially eligible children, two years old or older, who reside in the jurisdiction served by the local school system.

(2) The notification shall be provided electronically on the secure server, within a given timeframe determined by the Maryland Infants and Toddlers Program.

(3) A local lead agency is not required to conduct an evaluation, assessment, or an initial IFSP team meeting for the toddler referred to a local lead agency less than 45 days before the toddler's third birthday.

(4) A local lead agency shall refer the toddler to the local school system for the jurisdiction in which the toddler resides, with parental consent as required under §303.414, if a toddler is referred to a local lead agency less than 45 days before the toddler's third birthday.

B. Transition Procedures.

(1) A local lead agency shall ensure steps and services are identified to support a toddler's smooth transition, consistent with 34 CFR §§303.209 and 303.344(h) to:

(a) Preschool special education;

(b) The Extended IFSP Option; or

(c) Other appropriate services.

(2) The local lead agency shall:

(a) Develop transition outcomes on a child's IFSP when the child is 24 months old, or on the child's initial IFSP, if the child is referred after the child's second birthday; and

(b) Convene an IFSP team meeting for transition planning, consistent with requirements in 34 CFR §§303.342(d) and (e) and 303.343(a), with the approval of the parents of the toddler, not less than 90 days, and at the discretion of all parties, not more than 9 months before the toddler's third birthday, to discuss services the toddler may be eligible to receive.

(3) If a toddler with a disability may be eligible for preschool special education services, consistent with COMAR 13A.05.01, the local lead agency, with the approval of the toddler's family, shall convene an IFSP team meeting, as described in §B(2)(b) of this regulation, with:

(a) The toddler's family;

(b) A representative of the local school system; and

(c) The toddler's service coordinator.

(4) If the local lead agency determines that a toddler with a disability is not potentially eligible for preschool special education services, the local lead agency, with the approval of the toddler's family, shall make reasonable efforts to convene an IFSP team meeting, as described in §B(2)(b) of this regulation with:

(a) The toddler's family;

(b) The toddler's service coordinator; and

(c) Providers of other appropriate services.

(5) The IFSP team meeting described in §B(2)(b) of this regulation may occur less than 90 days before the toddler's third birthday, with clear written documentation, if:

(a) The toddler is unavailable;

(b) The family requests a delay because of other family reasons; or

(c) The toddler was referred after 33 months of age.

(6) If the IFSP team meeting described in §B(5) of this regulation occurs less than 90 days before the toddler's third birthday, the local lead agency shall make reasonable attempts to conduct the IFSP team meeting as soon as possible to allow for appropriate transition planning.

(7) The IFSP team shall develop a transition plan as part of the child's IFSP that includes:

(a) Steps for the toddler with a disability and the toddler's family to exit from the Part C program; and

(b) The identification of transition services the toddler or the toddler's family needs.

(8) The local lead agency shall provide the toddler's parents with:

(a) An annual notice consistent with 303.211(b)(1); and

(b) Information regarding community options and service delivery models if a toddler:

(i) Continues to receive early intervention services in accordance with an Extended IFSP; or

(ii) Begins to receive preschool special education services in accordance with an IEP.

(9) If a toddler with a disability may be eligible for preschool special education services, the local school system shall convene an IEP team meeting to determine the child's eligibility for Part B

preschool special education services, consistent with COMAR 13A.05.01.

(10) The local school system IEP team meeting described in §B(9) of this regulation shall:

(a) Be convened in a timely manner such that eligibility is determined before the toddler's third birthday; and

(b) The toddler's service coordinator or other Part C representative as a required team member, to participate in the review of existing data on the child's progress and performance on IFSP outcomes, unless the family requests, in writing, that a Part C representative not participate in the IEP team eligibility meeting.

(11) If a toddler is determined eligible for Part B preschool special education services, and parents wish for their child to receive services, the parents shall provide informed written consent, consistent with Regulation .11 of this chapter and COMAR §13A.05.01.13 to:

(a) Continue early intervention services through an Extended IFSP, including an educational component, as required by §303.344(c); or

(b) Receive preschool special education services through an IEP as a student with a disability in accordance with 34 CFR §300.324 and COMAR §13A.05.01.08, and no longer receive Part C services.

C. Extended IFSP Option.

(1) If the parent chooses the Extended IFSP Option the local lead agency shall:

(a) Acknowledge the parent's choice and their child's eligibility by providing the parent prior written notice, in accordance with 34 CFR §300.503 and COMAR §13A.05.01.12; and

(b) Ensure that early intervention services identified on a toddler's IFSP includes an educational component that promotes school readiness and incorporates:

(i) Preliteracy;

(ii) Language; and

(iii) Numeracy skills.

D. Termination of Extended IFSP Option Services.

(1) A parent may choose to terminate participation in early intervention services through an IFSP, at any time after the Extended IFSP Option is chosen, and choose preschool special education services through an IEP.

(2) The parent shall notify the local lead agency, in writing, of the choice to terminate early

intervention services under the Extended IFSP Option.

(3) The local lead agency shall notify the local school system of the parent's decision to request preschool special education services through an IEP.

(4) If a child's family chooses to terminate early intervention services under an Extended IFSP and initiate services through an IEP, a redetermination of the toddler's eligibility for special education services in accordance with COMAR 13A.05.01 is not required.

(5) Within 45 days of receiving written notification, as described in §D(3) of this regulation, the local school system shall convene an IEP team meeting to develop an IEP and determine the educational placement, in accordance with §F of this regulation.

(6) Once a child's parent makes the choice to terminate early intervention services through an Extended IFSP and pursue services through an IEP, through written notification to the local lead agency, as described in §D(2) of this regulation, the parent cannot continue services through an Extended IFSP beyond the date that IEP services are to begin; or the beginning of the school year following the child's fourth birthday, whichever occurs sooner.

(7) In order to ensure a seamless delivery of services, the local lead agency shall continue to provide early intervention services under an Extended IFSP until the IEP services are to begin or until the beginning of the school year following the child's fourth birthday, whichever occurs sooner.

E. Transition Planning Before the Beginning of the School Year Following a Toddler's Fourth Birthday.

(1) The Maryland Infants and Toddlers Program, local lead agencies, and public agencies shall ensure a smooth transition of a toddler from Part C EIS to preschool, in accordance with 34 CFR §303.211(b)(6)(ii).

(2) The local lead agency shall convene an IFSP team meeting transition planning meeting, consistent with requirements in 34 CFR §303.342(d) and (e) and 303.343(a), with the approval of the child's to discuss any preschool special education services that the child may receive and other community options.

(3) The IFSP transition planning meeting described in §E(2) of this regulation shall occur not fewer than 90 days, or at the discretion of all parties, not more than 9 months before the toddler will no longer be eligible to receive EIS.

(4) The participants of the IFSP team meeting shall include:

(a) The toddler's service coordinator;

(b) The child's family; and

(c) A representative of the local school system.

(5) The IFSP team meeting described in §E(2) of this regulation may be held less than 90 days before the beginning of the school year following the child's fourth birthday, if there is written documentation that:

(a) The child is unavailable because of illness; or

(b) The family requests a delay because of other family reasons.

(6) If the IFSP transition planning meeting described in §E(2) of this regulation is held less than 90 days before the beginning of the school year following the child's fourth birthday, reasonable attempts must be made to conduct the meeting as soon as possible to allow for appropriate transition planning.

(7) The local school system shall convene an IEP team meeting for the purpose of IEP development, consistent with COMAR 13A.05.01.07 – .10, before the beginning of the school year following the child's fourth birthday if the parent wishes to consider preschool special education services.

F. Preschool IEP Services.

(1) If the parent chooses to receive preschool special education services through an IEP, the local school system shall:

(a) Convene an IEP team meeting for the purpose of IEP development;

(b) At the request of the family, invite the toddler's service coordinator or other representatives of the local lead agency to attend the IEP team meeting;

(c) Develop an IEP, taking into consideration the IFSP, in accordance with 34 CFR §§300.323(b), 300.324 and COMAR §13A.05.01.07 – .10; and

(d) Consider Extended School Year services for a toddler transitioning to preschool special education services through an IEP whose third birthday falls after the end of one school year and before the beginning of the next school year, consistent with COMAR §13A.05.01.08B(2); and

(e) Ensure the IEP is in effect at the beginning of the school year, in accordance with COMAR 13A.05.01.09D(2).

.10 Procedural Safeguards – General Provisions.

A. Procedural Safeguards Notice.

(1) The local lead agency shall provide a copy of the procedural safeguards to the parents of an infant or toddler with a disability, with prior written notice, in accordance with 34 CFR §303.421(b)(3).

(2) The procedural safeguards notice shall include:

(a) Confidentiality of personally identifiable information and early intervention record, in accordance with 34 CFR §§303.401 – 303.417;

(b) Parental consent and notice, in accordance with 34 CFR §§303.420 – 303.422;

(c) Surrogate parents, in accordance with 34 CFR §303.422; and

(d) Dispute Resolution options, in accordance with 34 CFR §§303.430 – 303.434, and 303.440 – 303.449.

B. Confidentiality of Information. A local lead agency shall ensure the confidentiality of personally identifiable information, in accordance with 34 CFR 99, 34 CFR §§303.401—303.417, and COMAR 13A.08.02.

C. Opportunity to Examine Records. In accordance with the confidentiality procedures of 34 CFR 99, 34 CFR §§303.405, and COMAR 13A.08.02, the parent of an infant or toddler with a disability shall be given the opportunity to inspect and review their child's early intervention records collected, maintained, or used by the local lead agency.

D. The local lead agency shall provide parents an initial copy of their child's early intervention record at no cost to the parents, in accordance with 34 CFR §303.400(c).

.11 Procedural Safeguards – Prior Written Notice

A. General.

(1) Consistent with 34 CFR §303.421, a local lead agency shall provide a parent prior written notice a reasonable time before the local lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.

B. Prior Written Notice Content. The notice shall be in sufficient detail to inform the parent of:
(1) The action that is being proposed or refused;

(2) The reasons for taking the action; and

(3) The procedural safeguards, as described in Regulation .09A of this chapter, including:

(a) A description of mediation, consistent with 34 CFR § 303.431;

(b) How to file a State complaint, in accordance with 34 CFR §§303.432 through 303.434; and

(c) How to file a due process complaint, consistent 34 CFR §303.430(d), including any timelines.

C. Native Language.

(1) The notice shall be written in language that is understandable to the general public, and provided in the native language of the parent, unless it is clearly not feasible to do so.

(2) If the native language used by the parent is not a written language, the local lead agency shall ensure that the notice is translated orally or by other means to the parent, and the parent understands the content of the notice.

(3) A public agency shall maintain written documentation that the requirements of §C(1) and (2) of this regulation have been met.

.12 Procedural Safeguards – Consent

A. The local lead agency shall ensure parental consent is obtained before:

(1) Administering screening procedures under 34 CFR §303.320 that are used to determine whether a child is suspected of having a disability;

(2) All evaluations and assessments of a child are conducted, consistent with 34 CFR §303.321 and Regulation .05 of this chapter;

(3) Early intervention services are provided to the child;

(4) Public benefits or insurance or private insurance is used if such consent is required under § 303.520; and

(5) Disclosure of personally identifiable information consistent with 34 CFR §303.414.

B If a parent does not give consent, consistent with §A(1), (2) or (3) of this regulation, the local lead agency must make reasonable efforts to ensure that the parent:

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

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

C. The local lead agency shall not use the due process hearing procedures described in Regulation .13C of this chapter to challenge a parent's refusal to provide any consent that is required in accordance with §A of this regulation.

D. The parents of an infant or toddler with a disability:

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

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

.13 Procedural Safeguards – Surrogate Parents.

A General.

(1) A local lead agency shall ensure the rights of a child are protected when:

(a) No parent can be identified;

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

(c) The child is a ward of the State.

(2) A lead agency shall consult with the public agency assigned care of the child for children who are wards of the State or placed in foster care.

(3) If a child is a ward of the State, the surrogate parent may be appointed by the judge overseeing the infant's or toddler's case , instead of being appointed by the local lead agency in accordance with §A(1) of this regulation, provided the surrogate parent meets the requirements of §A(5) of this regulation.

(4) Criteria for Selecting Surrogates. The local lead agency shall ensure that a person recommended as a surrogate parent:

(a) Has no personal or professional interest that conflicts with the interests of the child the surrogate parent represents; and

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

(5) Nonemployee requirement; Compensation.

(a) A person assigned as a surrogate parent may not be an employee of the local lead agency or an employee of any service provider involved in the provision of early intervention or other services to the child or the child's family.

(b) A person who otherwise qualifies to be a surrogate parent is not an employee of an agency solely because the person is paid by a public agency to be a surrogate parent.

(6) Surrogate Parent Responsibilities. The surrogate parent has the same rights as a parent for all purposes of Part C of the Act and this chapter.

B. Surrogate Parent Appointment

(1) The local lead agency shall appoint a surrogate parent no more than 30 days after the local lead agency determines that the child needs a surrogate parent, consistent with §A(1) of this regulation.

(2)The written notification in §B(1) of this regulation shall include the name or names of an individual or individuals appropriately qualified to fulfill the role of a surrogate parent, consistent with §A(4) and (5) of this regulation.

(3)The local lead agency shall notify State Superintendent of Schools, or the Superintendent's designee, in writing, of the surrogate parent appointment not more than 10 days after the appointment.

(4) The notification described in §B(3) of this regulation shall include the child's name, the name of the surrogate parent, and any other information deemed applicable.

C. Limited Civil Liability

(1) A child entrusted to a surrogate parent shall be represented by that surrogate parent in the early intervention services decision making process.

(2) A surrogate parent is not liable to the child entrusted to the surrogate parent or to the parent of that child for any damages that result from acts or omissions of that surrogate parent constituting ordinary negligence.

(3) The immunity does not apply to liability covered by any applicable insurance, to the extent of that coverage, or to acts or omissions constituting gross, willful, or wanton negligence.

.14 Procedural Safeguards – Dispute Resolution

A. Written State Complaint Procedures. The Department shall receive and resolve any early intervention State complaint filed by any party regarding any violation of Part C of the Act in accordance with 34 CFR §§303.432 – 434, and COMAR 13A.05.01.15A.

B. Mediation. Any party may request mediation to resolve a dispute involving any matter related to the provision of early intervention services, including matters arising prior to the filing of a due process complaint, in accordance with 34 CFR §303.431, and COMAR 13A.05.01.15B.

C. Due Process Hearing Procedures.

(1) The Department shall provide for impartial resolution of individual child complaints concerning any matter related to the provision of early intervention services in accordance with 34 CFR §§303.440 – 303.449, 34 CFR §§300.507 – 300.518, and COMAR 13A.05.01.15C.

(2) If a parent files a due process complaint to dispute a determination that the child does not meet the criteria for identification as a student with a disability under Part B, the local lead agency is not required to provide the child with early intervention services after the child's third birthday during the pendency of the due process hearing.

Title 13A STATE BOARD OF EDUCATION

Subtitle 13 MARYLAND INFANTS AND TODDLERS PROGRAM

Chapter 02 Administration of Services for Infants and Toddlers and Their Families

Reference: 34 CFR 99, 300, 303

.01 Purpose.

A. The purpose of this chapter is to implement administrative procedures related to a Statewide and local comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families under Part C of the Individual with Disabilities Education Act (IDEA), 34 CFR §303 and COMAR 13A.13.01.

.02 Scope.

A. This chapter applies to State and local public agencies that provide early intervention services for infants and toddlers with disabilities and their families, in accordance with the child's Individualized Family Service Plan (IFSP), including to the Maryland Infants and Toddlers Program in the Maryland Department of Education, local school systems, and the 24 local lead agencies, in accordance with 34 CFR §303.

.03 Definitions.

A. In this chapter, the definitions in COMAR 13A.13.01 apply, and the following terms have the meanings indicated.

B. Terms Defined.

(1) "Council" means the State Interagency Coordinating Council.

(2) "Secretary" means the Secretary of the United States Department of Education.

.04 State Administration.

A. Public Awareness.

(1) The Maryland Infants and Toddlers Program shall provide oversight for Statewide and local public awareness 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.

(2) The Maryland Infants and Toddlers Program shall maintain a central directory that:

(a) Is accessible to the general public; and

(b) Includes accurate information regarding Maryland's early intervention system of services, consistent with 34 CFR §303.117.

B. Comprehensive Child Find System.

(1) The Maryland Infants and Toddlers Program shall ensure that each local lead agency establishes a comprehensive child find system that:

(a) Includes a system for primary referral sources to make referrals to local lead agencies within the timelines prescribed;

(b) Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services that will reduce the need for future services;

(c) Meets the requirements of 34 CFR 303.302 – 303.321 and is consistent with Part B of the Act;

(d) Is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to Part C of the Act, including, but not limited to:

(i) The Department;

(ii) The Maternal and Child Health Program, including the Maternal, Infant, and Early Childhood Home Visiting Programs, under Title V of the Social Security Act, as amended;

(iii) The Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program under Title XIX of the Social Security Act;

(iv) Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000;

(v) The Head Start Act, including Early Head Start programs, in accordance with section 645A of the Head Start Act;

(vi) The Supplemental Security Income program under Title XVI of the Social Security Act.

(vii) Child protection and child welfare programs, including programs administered by, and

services provided through, the Maryland Department of Human Resources;

(viii) Child care programs in the State;

(ix) The programs that provide services under the Family Violence Prevention and Services Act;

(x) The Early Hearing Detection and Intervention (EHDI) systems administered by the Centers for Disease Control (CDC); and

(xi) The Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act.

(e) With the advice and assistance of the Council, the Maryland Infants and Toddlers Program shall take steps to ensure that:

(i) There will not be unnecessary duplication of effort by the programs identified in §B(1)(d) of this regulation; and

(ii) The Maryland Infants and Toddlers Program shall make use of the resources available through public agencies and EIS providers to implement the child find system in an effective manner.

C. Comprehensive System of Personnel Development.

(1) The Maryland Infants and Toddlers Program shall develop and implement a comprehensive system of personnel development, consistent with 34 CFR §303.118.

(2) The Maryland Infants and Toddlers Program shall provide oversight to local lead agencies for the implementation of the local comprehensive systems of personnel development.

D. Personnel Standards.

(1) The Maryland Infants and Toddlers Program shall establish appropriate professional requirements for personnel providing early intervention services for eligible children and their families, consistent with 34 CFR §303.119.

(a) Appropriate professional requirements for personnel providing early intervention services are:

(i) State-approved or recognized certification, licensing, registration, or other comparable requirements that the Maryland General Assembly has enacted or authorized a State agency to promulgate through rules that establish entry level standards for employment in a specific profession or discipline; and

(ii) Based on the highest requirements in the State applicable to the profession or discipline in which a person is providing early intervention services.

E. Data Collection.

(1) The Maryland Infants and Toddlers Program shall maintain a uniform Statewide data collection system for compiling and reporting timely and accurate data that meets the requirements of 34 CFR §§303.124, 303.700 – .702, and 303.720 – .724.

(2) Consistent with 34 CFR §303.124, the Statewide data collection system shall:

(a) Collect data from public agencies and EIS providers;

(b) Compile the numbers of eligible children receiving early intervention services, and other information required by 34 CFR §303 and the Secretary of the U.S. Department of Education; and

(c) Include a description of the process that the Department will use to compile data on infants and toddlers with disabilities receiving early intervention services for reporting the data required, in accordance with 34 CFR §§303.700 – 303.707 and 303.720 – 303.724.

(3) The Maryland Infants and Toddlers Program shall report the data required by 34 CFR §303 .720 et seq. at the time and in the manner specified by the Secretary.

F. Supervision, Monitoring, and Enforcement.

(1) The Maryland Infants and Toddlers Program shall collaborate with State agencies identified in the State Interagency Agreement to monitor programs and activities of the State to implement Part C of the Act, including:

(a) Supervising and monitoring local lead agencies, institutions, organizations, and EIS providers, in accordance with 34 CFR §303.120(a);

(b) Providing technical assistance to those local lead agencies, institutions, organizations, and EIS providers;

(c) Enforcing obligations imposed on those local lead agencies, institutions,-organizations, and EIS providers;

(d) Correcting deficiencies that are identified through monitoring.

(e) Correcting noncompliance identified through monitoring as soon as possible and in no case later than one year after the identification of the noncompliance; and

(f) Conducting the activities in paragraphs (a) through (e) of this subsection, consistent with 34 CFR §303.700 – 303.707 to:

(i) Make determinations annually about the performance of each local EIS program using the

categories identified in 34 CFR §303.703(b);

(ii) Use appropriate mechanisms to enforce the requirements of Part C of the Act consistent with 34 CFR §303.704 and COMAR 13A.05.02.07; and

(iii) Report annually on the performance of the State and of each local EIS program, in accordance with 34 CFR §303.702.

(2) The focus of monitoring activities shall be to:

(a) Improve early intervention results and functional outcomes for infants and toddlers with disabilities; and

(b) Ensure that EIS programs meet program most closely related to improving early intervention results for infants and toddlers with disabilities.

(3) The Department shall monitor local lead agencies to measure performance, consistent with 34 CFR §303.700(d).

(4) In exercising the monitoring responsibilities described in §F(3) of this regulation, the Maryland Infants and Toddlers Program ensure the correction of noncompliance in the timeframe and manner as described in §F(1)(e) of this regulation.

G. State Performance Plan.

(1) The Maryland Infants and Toddlers Program shall develop and implement a performance plan that:

(a) Meets the requirements of 20 USC §1416;

(b) Is approved by the Secretary; and

(c) Includes:

(i) An evaluation of the State's efforts to implement the requirements and purposes of Part C of the Act;

(ii) A description of how the State will improve implementation; and

(iii) Measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in 34 CFR §303.700(d).

(2) The Maryland Infants and Toddlers Program shall:

(a) Review the State Performance Plan (SPP) at least once every six years; and

(b) Submit amendments to the Secretary in the timeframe and in the manner specified.

(3) The Department shall:

(a) Collect valid and reliable information on the indicators established by the Secretary for the SPP, in accordance with 34 CFR §303.702(b)(2);

(b) Use the priority areas and the SPP targets, consistent with §§303.700(d) and 303.701 to analyze the performance of each local EIS program in implementing Part C of the Act;

(c) Report annually to the Secretary on the performance of the State under the State's performance plan;

(d) Report annually to the public on the performance of each local EIS program on the targets in the State's performance plan, consistent with 34 CFR §303.702(b), as soon as practicable but no later than 120 days following the State's submission of its annual performance report to the U. S. Department of Education; and

(e) Make the SPP, annual performance report, and the State's annual reports on the performance of each EIS program available to the public, in accordance with 34 CFR §303.702(b)

(6) In meeting the requirements of 34 CFR §303.702(b)(1)(i)(A), the State shall include in its public report on local EIS programs the most recently available performance data on each local EIS program and the date the data were collected.

(7) The Maryland Infants and Toddlers Program shall not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

H. Policy for Contracting or Otherwise Arranging for Services.

(1) Consistent with 34 CFR §303.121, the Maryland Infants and Toddlers Program shall require agencies, institutions, or organizations to implement policies and procedures to ensure:

(a) Early intervention services provided to eligible children and their families shall meet the definition of early intervention services in COMAR 13A.13.03B(14);

(b) Procurement of early intervention services by service providers shall conform to the applicable agency procurement policies; and

(c) Individuals or organizations seeking to provide early intervention services shall meet the requirements of Regulation .08H of this chapter.

I. Resolution of Disputes.

(1) The Maryland Infants and Toddlers Program, consistent with 34 CFR §303.120(e), shall resolve:

(a) Interagency disputes; and

(b) Intra-agency disputes that local agency is unable to resolve.

(2) During the pendency of a dispute, the Maryland Infants and Toddlers Program shall:

(a) Assign financial responsibility to an agency; or

(b) Pay for the service in accordance with COMAR 13A.13.02.06.C.

(3) If, in resolving the dispute, the Maryland Infants and Toddlers Program determines that the assignment of financial responsibility was inappropriate, the Maryland Infants and Toddlers Program shall:

(a) Reassign the responsibility to the appropriate agency; and

(b) Make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

(4) To the extent necessary to ensure compliance with its action in §I(3) of this regulation, the Maryland Infants and Toddlers Program may:

(a) Refer the dispute to the Council which shall provide assistance within 15 days; and

(b) Refer to the Governor as necessary.

J. Timely Reimbursement of Funds.

(1) Upon resolution of an interagency dispute, the Maryland Infants and Toddlers Program shall notify the agency determined to have financial responsibility for the early intervention functions or services.

(2) The written notification shall include the:

(a) Name of the eligible child for whom functions or services have been provided;

(b) Type or types of early intervention function or service provided;

(c) Date or dates on which an early intervention function or service was provided;

(d) Frequency and intensity of the early intervention service provided;

(e) The cost of the service or services and the total amount of reimbursement required for the service or services; and

(f) Name of the agency to be reimbursed for the early intervention functions or services.

(3) Upon receipt of written notification, the agency determined to have financial responsibility shall provide reimbursement to the agency for functions or services provided during the pendency of the dispute within 30 days.

.05 State Interagency Agreements.

A. Interagency Collaboration.

(1) The Maryland Infants and Toddlers Program shall ensure that formal interagency agreements are developed with each of the responsible State agencies, consistent with 34 CFR §§303.120 and 303.500 – 511.

(2) Interagency agreements shall include:

(a) The commitment of agencies to ensure financial responsibility of local participating agencies providing early intervention services, consistent with 34 CFR §303.511;

(b) Procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the State's early intervention system, including:

(i) Provision for an agency to resolve internal disputes according to agency procedures, in accordance with Regulation .04(I) of this Chapter,

(ii) A process for notifying the Maryland Infants and Toddlers Program when an agency is unable to resolve an internal dispute, and

(iii) A mechanism for making a final determination that is binding upon the agencies involved; and

(c) Additional components as determined necessary to ensure effective cooperation and coordination among all agencies, including, but not be limited to, goals and objectives to:

(i) Adopt a uniform set of administrative policies and procedures by participating agencies, consistent with Education Article, §8-416, Annotated Code of Maryland;

(ii) Support policy priorities of the Subcabinet for Children, Youth, and Families, the Department, and the Council; and

(iii) Use funds available under Part C of the Act and the annual Budget Bill, enacted pursuant to

the Maryland Constitution, Article III, §52, to enhance the State's capacity to provide early intervention services.

.06 Funding.

A. General. The Department will identify and coordinate all available resources for early intervention services within the State, including those from federal, State, local and private sources, consistent with 34 CFR §§303.500 – 303.521.

B. Use of Funds. The use of IDEA Part C funds shall be consistent with the use of funds requirements in 34 CFR §303.501.

C. Payor of Last Resort. Funds available under Part C of the Act shall be used in a manner consistent with 34 CFR §§303.510 and 303.520.

D. State Application. The Department shall submit an annual application to the United States Department of Education at the time and in the manner specified the United States Department of Education, consistent with 34 CFR §§303.201 – 303.212, 303.220 – 303.227, 303.500 – 303.521

E. Use of Medical Assistance.

(1) The use of medical assistance is permissible if the local lead agency provides written notification to the child's parents, prior to using public benefits, consistent with 34 CFR §303.520.

(2) The Maryland Infants and Toddlers Program shall monitor implementation of policies related to the use of medical assistance to pay for early intervention services to eligible children and their families.

.07 State Interagency Coordinating Council (SICC).

A. Each system must include a State Interagency Coordinating Council that meets the requirements of 34 CFR §303.600 - §303.605.

B. Membership.

(1) The State Interagency Coordinating Council shall be composed as follows:

(a) At least 20 percent of the members shall be parents, including minority parents, including:

(i) One parent of a child with a disability, 6 years old or younger, and

(ii) Parents of children with disabilities, 12 years old or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities;

(b) At least 20 percent of the members shall be public or private providers of early intervention services;

(c) At least one member shall be from the State legislature;

(d) At least one member shall be involved in personnel preparation;

(e) At least one member shall be from the Department's subdivision responsible for preschool services to children with disabilities, with sufficient authority to engage in policy planning and implementation on behalf of that agency;

(f) At least one member shall be from the Maryland Insurance Administration;

(g) At least one member shall be from a Head Start agency or program in the State;

(h) At least one member shall be from the State agency responsible for child care;

(i) At least one member shall be a representative from the State agency responsible for the coordination of education of homeless children and youth;

(j) At least one member shall be a representative from the State child welfare agency responsible for foster care;

(k) At least one member shall be from the State agency responsible for children's mental health;

(l) At least one member shall have a disability; and

(m) Other members shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families, with sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(2) A maximum of ten individuals may be selected as ex-officio/nonvoting members.

(3) Membership shall represent the population and geographic diversity of the State.

C. Appointments.

(1) Voting members shall be appointed by the Governor with consent of the State Senate.

(2) Voting members shall serve for a term of 3 years beginning July 1. Members may be reappointed for one term.

(3) If a voting member is unable to complete a term, the Governor shall appoint a replacement for the remainder of the term.

D. Functions of the Council.

(1) The Council shall advise and assist the Department in the performance of its responsibilities in accordance with 34 CFR §303.604, including:

(a) The development and implementation of the policies that constitute the State's early childhood intervention and education system;

(b) The achievement of full participation, coordination, and cooperation of all appropriate public agencies in the State;

(c) The effective implementation of the State's early childhood intervention and education system by establishing a process that includes:

(i) Seeking information from service providers, service coordinators, parents, and others about any federal, State, or local policies that impede timely service delivery, and

(ii) Ensuring that policy problems identified under §D(1)(a) of this regulation are resolved; and

(d) Assistance to the Department in the resolution of disputes;

(2) Advise and assist the Department in the:

(a) Identification of sources of fiscal and other support for services for early childhood intervention and education programs under Part C and Part B, Section 619 of the Act,

(b) Assignment of financial responsibility to the appropriate agency;

(c) Promotion of methods which include:

(i)The use of intra-agency and interagency agreements for intra-agency and interagency collaboration regarding child find consistent with 34 CFR §303.115 and §303.302;

(ii) Monitoring consistent with 34 CFR §303.120 and §§303.700 – 303.708;

(iii) Financial responsibility and provision of early intervention services consistent with 34 CFR §303.202 and §303.511; and

(iv) Transition consistent with 34 CFR §303.209;

(d) Transition of toddlers with disabilities to preschool and other appropriate services;

(e) Provision of appropriate services to children 5 years old or younger; and

(f) Preparation of applications under Part C of the Act.

(3) The Council may carry out the following authorized activities:

(a) Advise and assist the Department regarding the provision of appropriate services for children with disabilities from birth through age five;

(b) Advise appropriate agencies in the State with respect to integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State; and

(c) Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, as described in the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other State interagency early learning initiatives, as appropriate.

(4) The Council shall prepare and submit an annual report to the Governor and to the U. S. Department of Education on the status of early childhood intervention and education programs for infants, toddlers and young children with disabilities and their families under Part C of the Act operated within the State.

(5) The Council shall submit the reports specified in §D(4) of this regulation at the time and in the manner specified by the Governor and The U. S. Department of Education.

(6) Each annual report must contain the information required by the U. S. Department of Education for the year which the report is made.

E. Meetings.

(1) The Council must meet, at a minimum, on a quarterly basis, and in such places as it determines necessary.

(2) The meetings shall be:

(a) Publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend; and

(b) Open and accessible to the general public.

F. Use of Funds by the Council.

(1) Subject to the approval by the Governor, the Council may use funds under this Part to:

(a) Conduct hearings and forums;

(b) Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives);

(c) Pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;

(d) Hire staff;

(e) Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act; and

(f) Provide for interpreters for persons who are deaf and other necessary services for Council members and participants.

(2) Except as provided in §F(1) of this regulation, Council members must serve without compensation from funds available under Part C of the Act.

.08 Local Lead Agency Administration

A. Designation of Local Lead Agency.

(1) The local governing authority of each jurisdiction shall designate a local lead agency to plan and coordinate early intervention services for eligible children and their families who reside within the jurisdiction.

(2) The local governing authorities may agree to designate a single local lead agency for two or more jurisdictions.

B. Local Interagency Agreements.

(1) The local lead agency shall enter into formal local interagency agreements with local agencies, institutions, organizations and early intervention service providers involved in the local early intervention system.

(2) Local interagency agreements shall include:

(a) Assignment of financial responsibility for early intervention services;

(b) Procedures for achieving timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the local early intervention system, including a procedure for notifying the Department/Maryland Infants and Toddlers Program when local resolution is not possible to make a final determination that is binding upon the agencies involved, consistent with 34 CFR §303.511(c)(3);

(c) A mechanism to ensure that services for a child under the Act are not delayed or denied because of any dispute between agencies regarding financial or other responsibilities, consistent with 34 CFR §303.511(d)(1).

(d) A description of Medical Assistance (MA) billing procedures for health related services and

service coordination, including the role(s) of the partner agencies in the interagency agreement; and

(e) Additional components as necessary to ensure effective cooperation and coordination among all service providers involved in the local early intervention system in accordance with Part C of the Act, Chapter 01 and 02 of this regulation, and local policies and procedures.

C. Consolidated Local Implementation Grant (CLIG).

(1) Each local lead agency shall develop and submit an annual consolidated local implementation grant for early intervention services, at the time and in the manner specified by the Department/Maryland Infants and Toddlers Program, including assurances whereby the interagency partners agree to comply with:

(a) The use of funds requirements, consistent with 34 CFR §303.501;

(b) The payor of last resort requirements, consistent with 34 CFR §303.510.

(2) The Department/Maryland Infants and Toddlers Program shall distribute local implementation grant funds to local lead agencies, contingent upon the submission of an annual local interagency plan in compliance with chapter 01 and 02 of this regulation.

D. Identification and Coordination of Resources. The local lead agency shall provide information related to other funding sources for early intervention services, at the time and in the manner specified by the Department , consistent with §C(1) of this regulation.

E. Public Awareness.

(1) Each local lead agency shall coordinate the development and implementation of a local public awareness program that focuses on the early identification of children who may be eligible to receive early intervention services, consistent with the provisions of 34 CFR §303.301, including:

(a) A description of the availability of early intervention services under this Chapter;

(b) A description of the child find system;

(c) A description on how to refer a child under the age of three for an evaluation or early intervention services;

(d) Preparation and dissemination of information to all primary referral sources; and

(e) Dissemination of information to parents of toddlers with disabilities of the availability of services under section 619 of the Act not fewer than 90 days prior to the toddler's third birthday.

F. Comprehensive Child Find System. Each local lead agency, consistent with the applicable

provisions of 34 CFR §303.302 - 303.322 shall have local policies and procedures identified in 13A.13.01.04 of this regulation.

G. Screening. Each local lead agency may adopt written policies and procedures.

G. Comprehensive System of Personnel Development. Each local lead agency shall develop and coordinate the implementation of a local comprehensive system of personnel development plan consistent with 34 CFR §303.118.

H. Personnel Standards. Each local lead agency shall develop and implement written policies to require personnel providing early intervention services for eligible children and their families to meet appropriate professional requirements established by the Department/Maryland Infants and Toddlers Program and consistent with 34 CFR §303.119.

I. Data Collection.

(1) The local lead agency shall:

(a) Develop procedures for collecting and compiling data from all appropriate service providers for preparation of reports required by the Department/Maryland Infants and Toddlers Program;

(b) Use the statewide data system to compile the numbers of eligible children receiving early intervention services, and other information required by 34 CFR §303 and the U.S. Department of Education; and

(c) Submit the data at the time and in the manner specified by the Department.

J. Supervision, Monitoring and Enforcement.

(1) Each local lead agency shall:

(a) Submit financial and other written reports at the time and in the manner specified by the Department;

(b) Participate in periodic desk audits and on-site monitoring visits conducted by the Department; and

(c) Comply with enforcement actions required by the Department.

K. Policy for Contracting or Otherwise Arranging for Services.

(1) The local lead agency shall include a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services, consistent with 34 CFR §303.121, including:

(a) The contents of the application;

(b) The conditions of contract; and

(c) Other arrangements, if applicable.

L. Timely Reimbursement of Funds.

(1) The local lead agency shall have procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with 34 CFR §§303.500 – 303.521.

M. Delivery of Services in a Timely Manner.

(1) Each local lead agency shall develop procedures to ensure that services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among service providers. Procedures shall be consistent with Regulation .05(A)(2)(b) of this Chapter.

(2) Service providers shall implement procedures in §M(1) of this regulation.

N. Notice of Availability of Programs.

(1) The local lead agency in the State shall notify the parents or guardians of each hearing impaired child of the availability of the education programs offered by the Maryland School for the Deaf.

(2) The local lead agency in the State shall notify the parents or guardians of each blind or visually impaired child, including children with multiple disabilities, of the availability of the educational programs offered by the Maryland School for the Blind.

O. Local Interagency Coordinating Council (LICC).

(1) The local governing authority of each jurisdiction shall establish a local interagency coordinating council to advise and assist the local lead agency in the development and implementation of policies that constitute the local early intervention system.

(2) The membership and meeting requirements of the local interagency coordinating council shall be consistent with the requirements established by the Department in the application for local implementation grant funds.

IMPACT STATEMENTS

Part A
(check one option)

Estimate of Economic Impact

X The proposed action has no economic impact.

or

The proposed action has an economic impact. Complete the following form in its entirety.

I. Summary of Economic Impact.

II. Types of Economic Impacts.

Revenue (R+/R-)
Expenditure (E+/E-) Magnitude

A. On issuing agency:

B. On other State agencies:

C. On local governments:

There may be economic impact through the requirements placed on local school systems, local departments of health and departments of social services. Actual implementation costs would vary depending on the jurisdiction. We anticipate that any additional costs would be minimal.

Benefit (+)
Cost (-) Magnitude

D. On regulated industries or trade groups:

E. On other industries or trade groups:

F. Direct and indirect effects on public:

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

Part B
(check one option)

Economic Impact on Small Businesses

X The proposed action has minimal or no economic impact on small businesses.

or

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

Impact on Individuals with Disabilities
(Check one option)

The proposed action has no impact on individuals with disabilities.

or

X The proposed action has an impact on individuals with disabilities as follows:

The Maryland Infants and Toddlers Program provides early intervention services annually to over 16,000 children birth to age four with disabilities and their families in Maryland's 24 local jurisdictions, the Maryland School for the Blind, and the Maryland School for the Deaf. Services provided include special instruction, physical and occupational therapy, speech-language pathology, audiology, nursing, social work, physiology, service coordination, nutrition and family training and counseling. Services are provided by highly qualified personnel in natural environments with children without disabilities on a continuous basis.

Part C
(For legislative use only; not for publication.)

A. Fiscal Year in which regulations will become effective: **FY 14**

B. Does the budget for fiscal year in which regulations become effective contain funds to implement the regulations?

X **Yes** No

C. If Ayes,@ state whether general, special (exact name), or federal funds will be used:

State General Funds
Federal Individuals with Disabilities Education Act (IDEA) Part B 611, Part B 619, and Part C Funds
Federal Medicaid reimbursement for service coordination and health related services

D. If A no,@ identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:
Local school systems and local departments of health are allocated financial compensation from the Maryland State Department of Education and local school system budgets.

Comparison to Federal Standards
(Check one option)

There is no corresponding federal standard to this proposed regulation.

or

X There is a corresponding federal standard to this proposed regulation. Please give corresponding federal standard and if the regulation is not more restrictive or stringent give justification.

The corresponding federal standard is 34 CFR Part 303 (Office of Special Education and Rehabilitative Services, U.S. Department of Education).

The State regulations are not more restrictive or stringent than the federal regulations because the guidance provided by the Office of Special Education Programs include procedures that ensure:

- Children birth to age four with disabilities and their families receive timely, continuous, comprehensive, and coordinated services;
- Parents are informed of their rights including due process remedies for parent-program disputes;
- State Lead Agency (MSDE) effectively monitors the programmatic and fiscal areas of the local programs; and
- State Lead Agency (MSDE) provides timely and accurate programmatic and fiscal data to the U.S. Department of Education.

or

In compliance with Executive Order 01.01.1996.03, this proposed regulation is more restrictive or stringent than corresponding federal standards as follows:

(1) Regulation citation and manner in which it is more restrictive than the applicable federal standard:

(2) Benefit to the public health, safety or welfare, or the environment:

(3) Analysis of additional burden or cost on the regulated person:

(4) Justification for the need for more restrictive standards: