

**34 CFR PART 303--EARLY INTERVENTION PROGRAM FOR INFANTS AND
TODDLERS WITH DISABILITIES**

**APPLICABLE EXCERPTS FROM THE INDIVIDUALS WITH DISABILITIES
EDUCATION ACT (IDEA), PART C REGULATIONS RELATED TO FICCCIT INQUIRY**

§303.2 Eligible recipients of an award and applicability of this part.

(a) Eligible recipients of an award. Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(b) Applicability of this part.

(1) The provisions of this part apply to--

(i) The State lead agency and any EIS provider that is part of the statewide system of early intervention, regardless of whether that EIS provider receives funds under Part C of the Act; and

(ii) All children referred to the Part C program, including infants and toddlers with disabilities consistent with the definitions in §§303.6 and 303.21, and their families.

(2) The provisions of this part do not apply to any child with a disability receiving a free appropriate public education or FAPE under 34 CFR part 300.

(Authority: 20 U.S.C. 1401(31), 1434, 1435(a)(10)(A))

§303.8 Council. (Definition)

Council means the State Interagency Coordinating Council that meets the requirements of subpart G of this part.

§303.120 Lead agency role in supervision, monitoring, funding, interagency coordination, and other responsibilities.

Each system must include a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following:

(a)(1) The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act.

(2) The monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions, organizations, and EIS providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including--

(i) Monitoring agencies, institutions, organizations, and EIS providers used by the State to carry out Part C of the Act;

(ii) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and these regulations;

(iii) Providing technical assistance, if necessary, to those agencies, institutions, organizations, and EIS providers;

(iv) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency's identification of the noncompliance; and

(v) Conducting the activities in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, consistent with §§303.700 through 303.707, and any other activities required by the State under those sections.

(b) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of this part.

(c) The assignment of financial responsibility in accordance with subpart F of this part.

(d) The development of procedures in accordance with subpart F of this part to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.

(e) The resolution of intra- and interagency disputes in accordance with subpart F of this part.

(f) The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with §303.511, that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of this part.

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

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

§303.125 State interagency coordinating council.

Each system must include a State Interagency Coordinating Council (Council) that meets the requirements of subpart G of this part.

§303.200 State application and assurances.

Each application must contain--

(a) The specific State application requirements (including certifications, descriptions, methods, and policies and procedures) required in §§303.201 through 303.212; and

(b) The assurances required in §§303.221 through 303.227.

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

§303.201 Designation of lead agency.

Each application must include the name of the State lead agency, as designated under §303.120, that will be responsible for the administration of funds provided under this part.

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

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

§303.205 Description of use of funds.

(a) General. Each State application must include a description of the uses for funds under this part for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the Council and include the information required in paragraphs (b) through (e) of this section.

§303.208 Public participation policies and procedures.

(a) Application. At least 60 days prior to being submitted to the Department, each application for funds under this part (including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application) must be published in a manner that will ensure circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period.

(b) State Policies and Procedures. Each application must include a description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations, the lead agency--

(1) Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure);

(2) Provides notice of the hearings held in accordance with paragraph (b)(1) of this section at least 30 days before the hearings are conducted to enable public participation; and

(3) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and these regulations.

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

§303.221 Expenditure of funds.

The State must ensure that Federal funds made available to the State under section 643 of the Act will be expended in accordance with the provisions of this part, including §§303.500 and 303.501.

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

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

§303.223 Control of funds and property.

The State must ensure that--

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

(b) A public agency will administer the funds and property.

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(Authority: 20 U.S.C. 1437(b)(3))

Subpart G--State Interagency Coordinating Council

§303.600 Establishment of Council.

(a) A State that desires to receive financial assistance under Part C of the Act must establish a State Interagency Coordinating Council (Council) as defined in §303.8.

(b) The Council must be appointed by the Governor. The Governor must ensure that the membership of the Council reasonably represents the population of the State.

(c) The Governor must designate a member of the Council to serve as the chairperson of the Council or require the Council to do so. Any member of the Council who is a representative of the lead agency designated under §303.201 may not serve as the chairperson of the Council.

(Authority: 20 U.S.C. 1441(a))

§303.601 Composition.

(a) The Council must be composed as follows:

(1)(i) At least 20 percent of the members must be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.

(ii) At least one parent member must be a parent of an infant or toddler with a disability or a child with a disability aged six years or younger.

(2) At least 20 percent of the members must be public or private providers of early intervention services.

(3) At least one member must be from the State legislature.

(4) At least one member must be involved in personnel preparation.

(5) At least one member must--

(i) Be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of these agencies.

(6) At least one member must--

(i) Be from the SEA responsible for preschool services to children with disabilities; and

(ii) Have sufficient authority to engage in policy planning and implementation on behalf of the SEA.

(7) At least one member must be from the agency responsible for the State Medicaid and CHIP program.

(8) At least one member must be from a Head Start or Early Head Start agency or program in the State.

(9) At least one member must be from a State agency responsible for child care.

(10) At least one member must be from the agency responsible for the State regulation of private health insurance.

(11) At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

(12) At least one member must be a representative from the State child welfare agency responsible for foster care.

(13) At least one member must be from the State agency responsible for children's mental health.

(b) The Governor may appoint one member to represent more than one program or agency listed in paragraphs (a)(7) through (a)(13) of this section.

(c) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE) or, where there is no school operated or funded by the BIE in the State, from the Indian Health Service or the tribe or tribal council.

(d) No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Authority: 20 U.S.C. 1231d, 1441(b), 1441(f))

§303.602 Meetings.

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

(b) The meetings must--

- (1) Be publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;
- (2) To the extent appropriate, be open and accessible to the general public; and
- (3) As needed, provide for interpreters for persons who are deaf and other necessary services for Council members and participants. The Council may use funds under this part to pay for those services.

(Authority: 20 U.S.C. 1441(c))

§303.603 Use of funds by the Council.

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

- (1) Conduct hearings and forums;
- (2) Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives);
- (3) Pay compensation to a member of the Council if the member is not employed or must forfeit wages from other employment when performing official Council business;
- (4) Hire staff; and
- (5) Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of the Act.

(b) Except as provided in paragraph (a) of this section, Council members must serve without compensation from funds available under Part C of the Act.

(Authority: 20 U.S.C. 1441(d))

§303.604 Functions of the Council--required duties.

(a) Advising and assisting the lead agency. The Council must advise and assist the lead agency in the performance of its responsibilities in section 635(a)(10) of the Act, including--

- (1) Identification of sources of fiscal and other support for services for early intervention service programs under Part C of the Act;
- (2) Assignment of financial responsibility to the appropriate agency;
- (3) Promotion of methods (including use of intra-agency and interagency agreements) for intra-agency and interagency collaboration regarding child find under §§303.115 and 303.302, monitoring under §303.120 and §§303.700 through 303.708, financial responsibility and provision of early intervention services under §§303.202 and 303.511, and transition under §303.209; and

(4) Preparation of applications under this part and amendments to those applications.

(b) Advising and assisting on transition. The Council must advise and assist the SEA and the lead agency regarding the transition of toddlers with disabilities to preschool and other appropriate services.

(c) Annual report to the Governor and to the Secretary. (1) The Council must--

- (i) Prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under Part C of the Act operated within the State; and

- (ii) Submit the report to the Secretary by a date that the Secretary establishes.
 - (2) Each annual report must contain the information required by the Secretary for the year for which the report is made.
- (Authority: 20 U.S.C. 1441(e)(1))

§303.605 Authorized activities by the Council.

The Council may carry out the following activities:

- (a) Advise and assist the lead agency and the SEA 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 the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.
- (c) Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children, as described in section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other State interagency early learning initiatives, as appropriate.

(Authority: 20 U.S.C. 1435(a)(10), 1441(e)(2))