NCHAM
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Understanding the IDEA Part C Regulations: the Role of EHDI

Under Part C of the Individuals with Disabilities Education Act (IDEA, 2004), states receive funds to make early intervention services available to infants and toddlers with disabilities under the age of three years and their families. Final federal regulations for IDEA 2004 Part C[1] were published in September 2011. These regulations contain specific requirements for States and early intervention service providers in ensuring that Part C is implemented in accordance with the law.

Early Hearing and Detection and Intervention (EHDI) programs play a critical role within the early intervention process by ensuring that infants and toddlers with, or at risk for, hearing loss are connected with Part C early intervention services. Part C regulations specifically state that Part C lead agencies will coordinate with EHDI systems as part of the Part C child find system (§303.302(c)(1)(ii)). To serve as effective partners in this process, EHDI coordinators must understand key components of IDEA Part C regulations.

The purpose of this document is to summarize for state EHDI coordinators and their partners the changes in the recent Part C regulations that are most relevant for EHDI programs. The document highlights elements of the Part C regulations that support increased understanding and coordination between EHDI systems and their state Part C counterparts with a goal of ensuring that infants and toddlers with hearing loss are identified, evaluated, and if eligible, have access to appropriate early intervention services.

The format for each Part C regulation or regulation category included is as follows:

- Part C regulation component(s) and numerical reference from the federal register www.gpo.gov/fdsys/pkg/FR-2011-09-28/pdf/2011-22783.pdf
- a brief description of the regulation;
- a summary of that component's ***Application to EHDI*** systems.

PRE-REFERRAL PROCEDURES

Seven-day Requirement

303.303(a)(2)(i) requires primary referral sources to refer a child to the Part C program "as soon as possible but in no case more than seven days" after the child is identified.

Additional Information: The Office of Special Education Programs (OSEP) realizes that in some cases an earlier referral may be reasonable, but believes that establishing a maximum timeline of seven days provides more flexibility to primary referral sources for making referrals than the former timeline of referral within two days. Moreover, the new timeline requires primary referral sources to refer children as soon as possible.

Comprehensive Child Find System

303.302(c)(2)(i) To provide consistency between the lead agency's responsibilities to ensure non-duplication of child find efforts and child find coordination, OSEP replaced the broad reference to various agencies with a reference to the specific programs with which the lead agency for Part C services in each state must coordinate its child find efforts.

Child Find Coordination with EHDI

303.302(c)(1)(ii) adds the following two programs to the list of primary referral source programs with which the lead agency for Part C services must coordinate its child find efforts: (1) The Children's Health Insurance Program (CHIP) and (2) the State Early Hearing Detection and Intervention (EHDI) program.

Application to EHDI:

Although the timeline change provides flexibility, EHDI coordinators should continue to work with providers to educate them about the importance of timely referrals. Referrals should be made as soon as possible, but no later than seven days after the child is identified. In their Part C State plan, each state may clarify whether an infant should be referred to the Part C program following a failed screen or only after a hearing loss has been diagnosed. Additionally, as noted in EHDI program guidance from Maternal and Child Health Bureau (MCHB) and Centers for Disease Control and Prevention (CDC), the results of audiological evaluations and the referral should be reported to the State EHDI program. The Child Find Coordination changes provide additional opportunities, through exchange of referrals, for collaboration between Part C and the State EHDI program.

POST-REFERRAL PROCEDURES

Screening & Evaluation - Screening Procedures

303.320 allows the lead agency to adopt procedures for screening to determine whether a child is suspected of having a disability. This screening, under the auspices of the Part C program, requires that the lead agency provide notice to the parents and obtain their consent.

Additional Information: The use of screening as a vehicle to identify children potentially eligible for Part C services may reduce the number of evaluations and assessments that would otherwise be needed for children not suspected of having a disability, thus reducing potential evaluation and assessment costs for the State.

303.321(a)(3)(i) Screening is intended to be a tool to assist the lead agency and early intervention service (EIS) providers to determine whether an infant or toddler is suspected of having a disability and is in need of an evaluation.

303.320 Lead agencies may use a variety of methods to ensure the identification of specific at-risk infants and toddlers who may be infants and toddlers with disabilities eligible for services under Part C of the Act.

Additional Information: The lead agency may establish screening procedures for children under the age of three, including at-risk infants and toddlers, who have been referred to the Part C program. Primary referral sources also may choose to conduct screenings of at-risk infants and toddlers prior to referring a child to the Part C program under §303.303. If a primary referral source conducts a screening under the supervision of the lead agency to identify children who may have disabilities, such screening procedures must meet the requirements in §303.320. If, however, a child's records establish a diagnosed physical or mental condition, as defined by each state, an evaluation may not be needed to determine the child's eligibility.

303.310 requires that, within 45 days after the lead agency or EIS provider receives a referral of a child, the screening (if applicable), initial evaluation, initial assessments (of the child and family), and the initial Individual Family Service Plan (IFSP) meeting for that child must be completed (45-day timeline).

303.320 requires the lead agency to provide notice to parents of its intent to screen and clarifies that, at any time during the screening process, a parent may request an evaluation.

303.320(b)(2) indicates that personnel who conduct screening of a child must be trained to administer appropriate screening instruments.

Additional Information: OSEP indicates that the revision which changed "qualified personnel" to "personnel…must be trained" was done to ensure that personnel, such as paraprofessionals or other individuals who are trained to administer a specific screening instrument, may conduct screenings.

Screening & Evaluation - Evaluation and Assessment of the Child and Family

303.321(a)(2)(i) clarifies that: (1) the term initial evaluation refers to the evaluation of a child that is used to determine his or her initial eligibility under Part C of the Act and (2) the term initial assessment refers to the assessment of the child and the family assessment that are conducted prior to the child's first IFSP meeting. If one individual completes an evaluation or assessment while representing two or more separate disciplines or professions, that individual must meet the definition of qualified personnel in each area in which the individual is conducting the evaluation or assessment.

303.321(a)(4) requires all evaluations and assessments be conducted by qualified personnel.

303.31 defines qualified personnel.

303.321(a)(5) and 303.321(a)(6) specify that unless clearly not feasible, all evaluations and assessments of a child must be conducted in the native language of the child, in accordance with the definition of native language in §303.25 (which provides that for limited English proficient (LEP) children, qualified personnel may determine the appropriate native language for evaluations and assessments of the child to be the language of the child if developmentally appropriate; otherwise it is the language of the child's parents).

303.321(a)(6) specifies that unless it is clearly not feasible, family assessments must be conducted in the native language of the family members being assessed in accordance with the definition of native language.

303.35 defines native language.

Additional Information: The changes related to evaluation and assessment seek to clarify the terms "multi-disciplinary" and "native language". For the former, OSEP has clarified that, while one person may represent two disciplines, that provider must meet the State's definition of qualified personnel in each area. Thus, a provider who is dually certified in audiology and speech-language pathology could evaluate an infant or toddler in both areas. However, while that individual could also represent both disciplines at an IFSP meeting, a service coordinator would also need to be present. However, if an audiologist serves as a service coordinator at an IFSP meeting, then a provider from another discipline needs to be involved in the meeting.

Application to EHDI:

States may use screening as a first step in the evaluation and assessment process to determine if the child is suspected of having a disability, thus reducing the numbers of infants and toddlers requiring a complete multidisciplinary evaluation to determine eligibility for Part C services. If the referral information indicates that a child is clearly suspected of having a disability, the child must be evaluated. Children with diagnosed or established conditions, as defined by each state, may not need to be evaluated to be determined eligible for Part C services. If a Part C agency plans to screen a child, it must notify the parent of its intent and obtain parental consent.

Depending upon a state's criteria for established conditions, at least some children with hearing loss will not need a Part C-administered screening or multi-disciplinary evaluation to be determined eligible for Part C services. That is, a child's medical records, including results of audiological evaluations, may be used to establish eligibility for some children with hearing loss. Personnel who conduct screenings must be appropriately trained, but may include paraprofessionals or other individuals who are trained on specific screening instruments. For program planning purposes, however, all eligible children must have a multi-disciplinary assessment of their unique strengths and needs, performed by qualified personnel.

Eligibility

303.21(a)(2)(ii) includes as eligible for IDEA Part C those infants and toddlers with 'a diagnosed physical or mental condition that has a high probability of resulting in developmental delay,' and includes sensory impairments, including hearing and vision. Examples of diagnosed physical conditions in the prior regulations in prior §303.16 included "severe sensory impairments." OSEP has now agreed that even a mild sensory impairment may result in developmental delay and has revised the definition in §303.21(a)(2)(ii), accordingly.

Application to EHDI:

This change permits States to serve children with a mild or moderate hearing loss that may result in developmental delay and not just those with severe hearing loss. It allows infants and toddlers with mild hearing loss to qualify for Part C services if the State elects to define sensory impairment in such a way.

At-risk infant or toddler

303.5 provides that, at the State's discretion, an at-risk infant or toddler may include an infant or toddler who is at risk of experiencing developmental delays due to biological or environmental factors. The use of the word "or" clarifies that States are not required to ensure that an at-risk infant or toddler is at risk only when meeting both types of factors.

Application to EHDI:

Currently, few states make Part C services available to at-risk infants and toddlers. In states that do, EHDI coordinators should foster awareness that children with any degree of hearing loss are at-risk for delayed development.

SERVICES IN NATURAL ENVIRONMENTS

303.13(a)(8) references the definition of natural environment in §303.26, which provides that natural environments are settings that are natural or typical for a same-aged infant or toddler without a disability; these may include the home, community, or other settings that are typical for an infant or toddler without a disability.

303.26 defines natural environment.

303.126 requires that each State's system include policies and procedures to ensure early intervention services are provided in natural environments to the maximum extent appropriate.

303.344(d)(1)(ii) requires that the IFSP Team include on the child's IFSP a statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate or the team justifies, based on the child's outcomes, when an early intervention service is not provided in the natural environment for that child.

Application to EHDI:

OSEP clarified that "natural environments" include not only a child's home, but also community or other settings that are natural or typical for an infant or toddler of the same age. Justification must be included on the child's IFSP if services are to be provided in a setting other than the natural environment. Examples may include the need for a sound proof room for evaluating a child's hearing or the opportunity to participate in a small group setting with other children developing language through ASL.

EARLY INTERVENTION SERVICE PROVIDERS

303.13 defines early intervention (EI) services.

303.12 defines early intervention service (EIS) provider.

303.12(b)(3) specifies that such providers are responsible for providing consultation and training to parents and others concerning the provision of early intervention services described in the IFSP of the infant or toddler with a disability. Additionally, this consultation and training will provide family members with the tools to facilitate a child's development even when a teacher or therapist is not present.

Application to EHDI:

EHDI programs should be familiar with the scope of early intervention services and qualified providers as specified in §303.13. EI services and/or consultations are required to be provided in a way that gives families the support necessary to help their children develop and learn when the service provider is not present. Examples include but are not limited to care of hearing aids and implants, and development in listening and spoken language, ASL, or cued speech. This requirement applies to all EI providers including audiologists.

NATIVE LANGUAGE

303.25(a)(1) defines native language as the language normally used by an individual or by the parents of the child.

303.25(a)(2) provides clarification for native language use in evaluation and assessment of a child with limited English proficiency.

Additional Information: Evaluations and assessments will be given in the native language of the child if the evaluator determines that the language is developmentally appropriate for the child (given the child's age and the communication skills).

Application to EHDI:

EHDI programs can demonstrate the importance of honoring the family's native language within the evaluation process. The use of sign language interpreters, language translators and interpreted and/or translated telephone services are examples of methods that support the provision of culturally competent and accessible services. EHDI program personnel can assist and support Part C programs by sharing knowledge regarding local, regional and state language interpretation and translation resources.

ASSISTIVE TECHNOLOGY

303.13(b)(1) defines and clarifies assistive technology devices.

Additional Information: The definition of assistive technology does not identify specific devices. The determination of need for a specific device and/or service is made by the IFSP Team based on the child's specific developmental outcomes. Cochlear implant mapping is not a covered service because a cochlear implant is a surgically implanted device.

Application to EHDI:

IFSP Teams can ensure that parents and EI professionals have the tools to work together and to communicate with an audiologist regarding device functioning. IFSP Teams may also include parent training on hearing aid and/or cochlear implant troubleshooting as well as regular device checks as services to assist in monitoring devices between visits as part of auditory development.

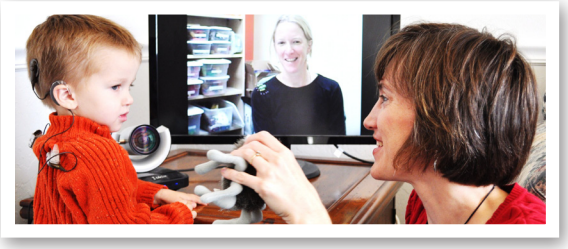
SIGN LANGUAGE AND CUED LANGUAGE SERVICES

303.13(b)(12) defines sign language and cued language services separately from, and not included in, the definition of speech-language pathology services. Sign language and cued language services are defined to include "teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation."

Additional Information: The phrase "as used with respect to infants and toddlers with disabilities who are hearing impaired" is not included in the definition of sign language and cued language services in §303.13(b)(12) since these services may also be used with children who do not have hearing loss.

Application to EHDI:

Sign language and cued language, when determined appropriate by the IFSP team, may be listed separately on a child's IFSP. Identifying these as separate services may provide families greater assurance that interpreting and transliteration services are available to support communication.



TRANSPORTATION AND RELATED COSTS

303.13(b)(16) address transportation and related costs that may be necessary to enable a child and family to receive services.

Additional Information: These sections align closely with the language in §632(4)(E)(xiv) of the Act. Examples of types of transportation are not included to preclude any interpretation that the list is all-inclusive.

Application to EHDI:

Transportation is a covered service for families with limited transportation only to the extent it is identified by the IFSP Team as needed to receive another Part C service. For example, taxi service to an audiological assessment, justified on the IFSP as a service not provided in the natural environment, may be a covered service for families with limited transportation.

TRANSITION

Transition Notification

303.209(b)(1) requires, that for toddlers who may be eligible for preschool services under Part B of IDEA, the lead agency must notify not only the Local Educational Agency (LEA) where the toddler resides but also the State Educational Agency (SEA).

303.209(b)(1)(i) addresses children exiting by age three and determined eligible earlier than 90 days prior to turning three.

303.209(b)(1)(ii) addresses children determined eligible for Part C 45-90 days prior to turning age three.

303.209(b)(1)(iii) addresses children referred to lead agency less than 45 days prior to turning age three.

303.209(b)(2) states that transition notification must be consistent with any opt-out policy that the State has adopted under §303.401(e).

Additional Information: For toddlers who may be eligible for Part B preschool services, the Part C agency must notify both the LEA and the SEA according to the following guidelines:

- For toddlers exiting Part C by age three – at least 90 days prior to their third birthday;
- For toddlers determined eligible for Part C 45-90 days prior to turning age three – as soon as possible after the eligibility determination;
- For toddlers referred to Part C less than 45 days prior to turning age three - no evaluation/assessment/IFSP is required, but Part C (with parental consent if applicable) must notify the LEA and SEA if the child is potentially eligible for IDEA Part B services.

Transition Conference

303.209(c)(1) addresses children exiting Part C and potentially eligible for Part B.

300.124 addresses LEA participation in the conference.

303.209(c)(2) addresses children exiting Part C and not potentially eligible for Part B.

Additional Information: For toddlers potentially eligible for Part B, the conference must be held at least 90 days and not more than 9 months prior to the toddler's third birthday. The LEA must participate. For toddlers not potentially eligible for Part B, Part C must make reasonable efforts to convene the conference. Parental approval is required to conduct the transition conference in all cases.

Transition Plan

303.209(d) states that IFSPs must include, at least 90 days before the child turns three, a transition plan for all infants and toddlers with a disability who are exiting from Part C.

Additional Information: The plan must include: a review of program options; steps to exit from Part C (including confirmation of the transition notification); and appropriate transition services that have been identified by the IFSP team as needed by the toddler and his/her family. The family will participate in the plan's development.

Application to EHDI:

It is important that EHDI coordinators be aware of the general requirements for transition, any state-specific guidelines, and Part B eligibility criteria so they may provide information on all program options, accurate responses to family inquiries, and effectively direct families to resources. EHDI coordinators may also be helpful in assisting the Part C agency in identifying potential resources for toddlers determined not potentially eligible for Part B services and in assisting the Part B agency in understanding eligibility consideration specific to toddlers who are deaf or hard of hearing.

COORDINATION TO SUPPORT PART C REGULATIONS

EHDI programs have made great strides in the early detection of hearing loss in infants. Approximately 3 newborns per 1,000[2] have a hearing loss that impacts learning of speech and language. Three additional children per 1,000 acquire hearing loss in early childhood[3]. Results of the Centers for Disease Control (CDC) 2010 Annual Survey[4] indicated that seventy-two percent of infants with a documented diagnosis were identified by three months of age. Although this is great progress, the 2010 CDC Survey also indicated just 67% of infants with a documented diagnosis could be verified as having enrolled in early intervention services.

Effective collaboration between EHDI and Part C programs remains central to closing the gap between identification and intervention. EHDI programs can build and maintain relationships with Part C through identifying and working on areas of common concern, establishing regular communication between programs, participating on EHDI and Part C committees, and providing EHDI training and technical assistance to Part C partners. The 2013 "Supplement to the JCIH 2007 Position Statement: Principles and Guidelines for Early Intervention After Confirmation That a Child is Deaf or Hard of Hearing"[5] is a resource that can assist EHDI and Part C programs in identifying potential areas for collaboration.

Opportunities for children who are deaf and hard of hearing to develop their full potential in language, cognition, social and emotional growth, and early literacy depend on how well the systems and services function. Maintaining and strengthening the partnership between and Part C programs must continue to be a priority to ensure that all children who are deaf and hard of hearing are identified and connected to services and resources.

References

1. Part C of the IDEA is published at 20 U.S.C. §§1401 through 1408 and 1431 through 1444 and its applicable regulations are at 34 C.F.R. Part 303.
2. Ross, D., Holstrum, W. J., Gaffney, M., Green, D., Oyler, R., & Gravel, J. (2008). Hearing screening and diagnostic evaluation of children with unilateral and mild bilateral hearing loss. *Trends in Amplification*, 12(1), 27.
3. Northern, J. & Downs, M., Hearing in Children (Fifth Edition), Lippencott, Williams, and Wilkins, 2002
4. Centers for Disease Control and Prevention, (2012 January 23). 2010 Annual Data Early Hearing Detection and Intervention Program, http://www.cdc.gov/ncbddd/hearingloss/ehdi-data2010.html
5. Joint Committee on Infant Hearing, (2013). Supplement to the JCIH 2007 position statement: Principles and guidelines for early intervention after confirmation that a child is Deaf or Hard of Hearing. *American Academy of Pediatrics*, 131, e1324-e1349, doi:10.1542/peds.2013-0008

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