

Delaware's Infants and Toddlers Early Intervention Program

Policies and Procedures Manual



2020 Draft for Public Review and Comment

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PREFACE

Purpose

This document encompasses the comprehensive policies and procedures for the development and implementation of the Delaware Infants and Toddlers Early Intervention Program that is the statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and/or developmental delays and their families. The manual is based on the participation of Delaware in Part C of the Individuals with Disabilities Education Act (IDEA). The Birth to Three Program has designed the statewide early intervention system to assure all components of the system comply with policies under Part C of IDEA.

Annually, the Delaware Department of Health and Social Services, Birth to Three Program submits a grant application to the Office of Special Education Programs. By receiving federal grant dollars, Delaware agrees to:

- Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;
- Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources (including public and private insurance coverage);
- Enhance statewide capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;
- Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and
- Encourage the expansion of opportunities for children under three years of age who would be at risk of having a substantial developmental delay if they did not receive early intervention services.

Overview

The Individuals with Disabilities Education Act (IDEA 2004) was previously known as The Education for All Handicapped Children Act, P.L. 94-142 (1975) and originally mandated that free appropriate public education and related services be provided to children with disabilities ages 6-21. Amendments to the IDEA were passed in 1986 (P.L. 99-457) and included Part H, providing an incentive to states to develop a system of coordinated, comprehensive, multidisciplinary, interagency programs of services for infants and toddlers, birth through two years of age, and their families.

The U.S. Congress reauthorized IDEA in 1997 and what was known as Part H became Part C. Based on reauthorization of IDEA in 2004, revisions to Part C regulations in 34 C.F.R. Part 303 were initiated. Final federal regulations for states' Part C services programs under Part C of the IDEA were published in the Federal Register and were made effective on September 28, 2011 and are available at <https://sites.ed.gov/idea/statuteregulations/>.

Mission

The mission of Delaware's Infants and Toddlers Early Intervention Program is to enhance the development of infants and toddlers with disabilities and/or developmental delays and to enhance the capacity of their families to meet the special needs of these young children. This mission has been adopted by both the Interagency Coordinating Council and the Delaware Department of Health and Social Services. Guiding principles include:

- Family-centered focus - Delaware is committed to strengthening and supporting families, sensitivity to the family's right to privacy, and respect for multicultural preferences. As the primary influence in the child's life, and the most valuable source of information about the needs of the child and family, family members are key participants in each step of early intervention design and delivery. A critical function of service providers should be to enhance and build the confidence and competency of the family so that the family can support their child's development throughout the day as natural learning opportunities occur.
- Integration of services - The needs of infants and toddlers and their families require the perspectives of various disciplines; thus, services and supports should be planned, using a collaborative, multidisciplinary, interagency approach. Existing services and programs, both public and private, should be supported with appropriate linkages promoted.
- Universal application - Families of infants and toddlers with disabilities or developmental delays, in all areas of the state, should receive comprehensive, multidisciplinary assessments of their young children, ages birth to 36 months, and have access to all necessary early intervention services and supports.
- Cost effectiveness - The system maximizes the use of third-party payment and avoids duplication of effort. Initial evaluation for eligibility and service coordination are provided at no cost to the family. Delaware has instituted a System of Payments policy to ensure financial sustainability of the program.
- High quality services - Service should be provided at the highest standards of quality with providers being required to meet appropriate licensing and credentialing guidelines.

Section 1: DEFINITIONS

Policy Name:	1. Definitions
Authority:	Federal: 20 U.S.C §§1476, et seq.; 20 U.S.C. § 1232g; 34 CFR Part 99; 34 CFR §§303.4-37, §303.321(b) State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §212
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	October 2014; revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the terms used throughout the policies and procedures and to ensure consistent understanding and use of those terms.

Policy:

As used in these policies and procedures, unless the context requires otherwise:

Abuse or abused child is defined in the Delaware Administrative Code, Title 10, §901(1) and means that a person:

- A. Causes or inflicts sexual abuse on a child; or
- B. Has care, custody or control of a child, and causes or inflicts:
 1. Physical injury through unjustified force as defined in §468 of Title 11;
 2. Emotional abuse;
 3. Torture;
 4. Exploitation; or
 5. Maltreatment or mistreatment.

Access to records means the right for a parent to have the opportunity to inspect, review and obtain copies of records related to evaluation, assessment, eligibility determination, development and implementation of an Individualized Family Service Plan, individual complaints pertaining to the child, and any other relevant information

regarding his or her child and family, unless restricted under authority of applicable state law governing such matters of guardianship, separation, adoption, or divorce.

Adaptive development means the development of self-help skills such as feeding and dressing.

Assessment means the procedures used initially before the child's first Individualized Family Service Plan (IFSP) and continuously throughout the child's period of eligibility for early intervention services, to identify:

- A. The unique strengths and needs of the child and the early intervention services appropriate to meet those needs; and
- B. The resources, priorities, and concerns of a parent and the early intervention services necessary to enhance the capacity of a parent or other caregiver to meet the developmental needs of the eligible child within everyday routines, activities and places.

At-risk refers to factors found among children who may have developmental delays as a result of biological or environmental conditions, however the delays are not significant enough to be considered eligible for early intervention services.

Atypical development means development or behaviors that fall outside the expected range of development in one or more of the five domains referenced in *Section 14: Evaluation and Assessment* of these policies and procedures and emerge in a way that is different from same age peers. They are not attributable to culture or personality and are different in quality, form and function. Atypical development can be determined through informed clinical opinion of delay, even when evaluation tools do not establish eligibility.

Case manager is the original term used in Part C of IDEA for a service coordinator and having the same function.

Child Abuse Prevention and Treatment Act (CAPTA) means the CAPTA state grant program that provides states with flexible funds to improve their child protective service systems. Reauthorized by the Keeping Children and Families Safe Act of 2003, the program requires states to provide assurances in their five-year child and family services plan that the state is operating a statewide child abuse and neglect program. This program includes policies and procedures that address the needs of drug-exposed infants and provisions for referral of children under age three who are involved in a substantiated case of abuse and neglect to early intervention services under IDEA Part C.

Child Development Watch (CDW) refers to the program within the Department of Health and Social Services that has the operational responsibility for the early intervention programs that carry out Part C in Delaware. These responsibilities include:

- A. Identification of Part C eligible children and their families;
- B. Service coordination for Part C eligible families;
- C. Evaluation for eligibility and family assessment;
- D. Developing and maintaining the Individualized Family Service Plan;

- E. Arranging for the delivery of early intervention services; and
- F. Preparing for and carry out early childhood transition activities.

Child Find means the activities under Part C of the Individuals with Disabilities Education Act of 2004 (P.L. 108-446) (IDEA) that ensure that infants and toddlers in the state who are eligible for services under IDEA, Part C, are identified, located and evaluated.

Children experiencing homelessness (See also Homeless Children) means children who lack a fixed, regular, and adequate nighttime residence, in accordance with the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431, et seq. and 34 C.F.R. 303.17.

Closed-loop referral process means the best practice to correspond to the primary referral source to acknowledge the receipt of referral of an infant and toddler to early intervention services.

Coaching means a relationship-based strategy used by appropriately trained personnel with a family member, other caregiver, or another provider to support what is already working to help a child develop and to increase their knowledge and use of new ideas to achieve child or family outcomes.

Cognitive development means a child's mental processes of perception, memory, judgment, and reasoning such as cause and effect, object permanence, or engaging in symbolic play.

Communication development means acquisition of communication skills, during pre-verbal or verbal phases of development; receptive and expressive language, including spoken and sign language means of expression; the use of augmentative communication devices; and speech production and perception. It also includes oral-motor development, specifically those neuromuscular and structural conditions affecting pre-speech oral-motor development, speech and sound productions, and feeding and swallowing processes. The term, when related to hearing, includes development of auditory awareness, auditory, visual, and kinesthetic skills; as well as auditory processing for speech or language development.

Complaint procedures mean actions taken by the Birth to Three Program to resolve a complaint lodged by an individual or organization regarding any agency or local service provider participating in the delivery of early intervention services that is violating a state or federal requirement.

Confidentiality means the protection of information which may identify a client to ensure privacy.

Consent means that the parent has been fully informed, in the parent's native language, of all information relevant to the activity for which consent is sought. Consent also means that the parent understands and agrees in writing to the carrying out of the activity. Parental consent is voluntary and may be revoked in writing at any time. If consent is revoked by a parent, the revocation is effective on that day and does not apply to any actions that occurred before consent was revoked.

Co-payment means a specified dollar amount that an insured person must pay for covered health care services. The insured person pays this amount to the provider at the time of service.

Criteria means standards on which a judgment or decision may be based.

Day means calendar day unless otherwise indicated.

Deductible means the amount that must be paid out-of-pocket before a health insurance company pays its share.

Destruction means the destruction of a child's physical and/or electronic early intervention record or ensuring that personally identifiable information is removed from a child's record so that the record is no longer personally identifiable.

Development refers to the progress and orderly changes in a child's motor, cognitive, language, social, and adaptive abilities that result in the organization of complex systems of competencies and increases with maturity, growth, and experience and interaction with the environment.

Developmental delay in Delaware's Infants and Toddlers Early Intervention Program is defined in *Section 13: Eligibility (C)* of these policies and procedures.

Due process hearing means the formal procedure carried out by an impartial hearing officer used to resolve a dispute involving an individual child or parent related to any EI matter within 30 days of receipt of the request for a hearing. Delaware has adopted the Part C due process hearing procedures consistent with Part C of IDEA, Sections 303.435-438.

Duration means the specific and measurable period of time a service is provided, specified by the actual service start and actual service end dates.

Early Head Start means a program funded under the Head Start Act, pursuant to 42 U.S.C. 9801, and carried out by a local agency or grantee that provides ongoing comprehensive child development services for pregnant women, infants, toddlers, and their families.

Early intervention programs and providers mean the local offices of Child Development Watch Program or contracted providers who deliver early intervention services.

Early intervention record means the early intervention record that is directly related to a child referred to the Delaware Infants and Toddlers Early Intervention Program and/or enrolled in early intervention services. The record is maintained by the Child Development Watch Program and/or its contractors for the purpose of evaluating and assessing a child referred to the Program and for the delivery of services.

Early intervention service provider means an entity (public, private, or nonprofit) or individual that provides early intervention services under the Infants and Toddlers Early Intervention Program.

Established condition for an infant or toddler means a diagnosed physical or mental condition that has a high probability of resulting in significant delays in development and is included in the Established Conditions list.

Evaluation for early intervention services means the procedures used by appropriate qualified personnel to determine an infant's or toddler's initial and continuing eligibility for participation in early intervention services. Evaluation includes:

- A. Administration of an evaluation instrument;
- B. Taking the child's history including information from the parent;
- C. Identifying the child's level of functioning in each of the developmental areas;
- D. Gathering information from other sources; and
- E. A review of pertinent medical, educational or other records.

Everyday routines, activities, and places means routines that are customarily a part of families' typical days including, but not limited to: mealtime; bath time; shopping; play time; and outdoor play. The activities a family does with the infant or toddler on a regular basis; places where the family participates on a regular basis, are, but not limited to, home, place of worship, store, and childcare.

Evidence-based practices mean practices that integrate research that has demonstrated efficacy and with consideration of the situation, goals, and values of the child, family and professionals.

Evidence-informed strategies mean methods that use nationally recognized recommended practices to inform the effective delivery of early intervention services.

Family assessment means a process using a Birth to Three Program-approved assessment tool and parent interview prior to the development of an initial Individualized Family Service Plan.

Family Educational Rights and Privacy Act (FERPA) means the federal law that protects the privacy of students' "education records" under 20 U.S.C., § 1232g; 34 C.F.R. Part 99. FERPA requirements apply to educational agencies and institutions that receive funds under any program administered by the United States Department of Education. It protects the privacy of early intervention records, including access to, and disclosure of, personally identifiable information, and a parent's right to review, copy and/or request amendments of their child's record.

Frequency means the number of days or sessions an early intervention service is provided, for example physical therapy provided two sessions per month or one time per week.

Guardian means a person appointed by the court or named in a will and charged with limited, temporary, or full guardian's power and duties, pursuant to Delaware's Administrative Code, Title 12, Chapter 39, §3982(2).

Health Insurance Portability and Accountability Act (HIPAA) means the privacy rule that establishes national standards and requirements for electronic health care transactions and protects the privacy and security of individually identifiable health information.

Homeless children (See also Children Experiencing Homelessness) is a term that refers to those young individuals who lack a fixed, regular, and adequate nighttime residence to include, but not limited to:

- A. Children who are sharing housing with other persons due to loss of housing, economic hardship or a similar reason;
- B. Living in motels, hotels, trailer parks, camping grounds, cars, parks, public spaces, abandoned buildings;
- C. Substandard housing, such as emergency or transitional shelters or similar settings;
- D. Abandoned in hospitals; or
- E. Awaiting foster care placement.

Individualized Family Service Plan (IFSP) means a written plan for providing early intervention services to eligible children and their families, that:

- A. Is based on the evaluation and assessment;
- B. Includes parental consent;
- C. Is developed in accordance with IDEA, Part C, and its implementing regulations at 34 C.F.R.:
 - 1. §303.342 - Procedures for IFSP development, review, and evaluation;
 - 2. §303.343 - IFSP Team meeting and periodic review; and
 - 3. §303.344 - Content of the IFSP.
- D. Service provision is implemented as soon as possible, but no later than 30 days from the date parental consent is obtained for each of the early intervention services in the IFSP.

Individuals with Disabilities Education Act (IDEA) is the federal statute (Public Law 108-446) that governs states' provision of early intervention and special education services to children with developmental delays or disabilities, ages birth through 21. IDEA has four "parts." Part C of IDEA specifically defines regulations for early intervention services.

Infant or toddler with a disability means a child under three years of age who needs early intervention because s/he is:

- A. Diagnosed with a physical or mental condition that has a high probability of resulting in a developmental delay; or
- B. Experiencing a developmental delay in one or more of the following areas:
 - 1. Cognitive development;
 - 2. Physical development, including vision and hearing;
 - 3. Communication development;
 - 4. Social-emotional development; or

5. Adaptive development.

Informed clinical opinion means the knowledgeable judgement of the evaluation team who use professional expertise and experience to determine the presence of a significant delay in one or more of the five domains of development referenced in *Sections 13: Eligibility for Delaware's Infants and Toddlers Early Intervention Program* and *14: Evaluation and Assessment* of these policies and procedures. Informed opinion of delay may be used as an independent basis to establish a child's eligibility and may be especially useful in situations where a clear developmental level cannot be gained through the typical evaluation process. Informed clinical opinion may not be used to negate the results of evaluation instruments used to establish eligibility.

Initial assessment means the assessment of the child and the family conducted before a child's first Individualized Family Service Plan meeting, in accordance with *Section 14: Evaluation and Assessment* of these policies and procedures.

Intensity means the length of time that a service is provided during each session, for example, physical therapy, one time a week, for 60 minutes, conducted individually in the home.

Interagency Coordinating Council (ICC) is the Governor-appointed council required under Part C of IDEA that is charged with advising and assisting the lead agency (i.e. the Delaware Department of Health and Social Services).

Lead agency means, the Delaware Department of Health and Social Services as the agency designated by the Governor that receives funds and administers the state's responsibilities under Part C of IDEA.

Local Education Agency (LEA) means the public education authority legally constituted within the state to perform the functions of public education in a city, county, township, school district, or other administration agency for its public elementary schools or secondary schools.

Maintenance of Effort (MOE) means that the total amount of public state and local funds budgeted for expenditures in a current fiscal year for early intervention services shall at least equal to the total amount of public state and local funds actually expended for early intervention services in the most recent preceding fiscal year for which information is available.

Mediation means voluntary procedures used to resolve a dispute involving any matter described in 34 C.F.R. §§303.430-437, which is incorporated by reference as defined in *Section 21: Dispute Resolution* of these policies and procedures.

Method means how an early intervention service is provided. The type of method may be one of the following:

- A. An individual service provided to a child and family;
- B. Co-visit during which services are provided by two professionals during a session;
- C. Teaming through regularly scheduled meetings as the formal time for provider-to-provider information sharing and support in order to develop strategies designed

to build the capacity of parents and other caregivers to meet child and family outcomes; or

- D. Supervision by a qualified provider who oversees the work of a student or paraprofessional through observation and guidance, including direction and evaluation of the activities performed by the supervisee.

Multidisciplinary assessment (MDA) team means a group that is made up of two or more qualified personnel who have different training and experience who conduct the assessment, as defined in this policy, of a Part C eligible infant or toddler.

Multidisciplinary evaluation (MDE) team means a group that is made up of two or more qualified personnel who have different training and experience who conduct the evaluation, as defined in this policy, to determine the Part C eligibility of an infant or toddler.

Native language, when used with respect to an individual who has limited English proficiency, means:

- A. The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided below in “B”; and
- B. For evaluations and assessments conducted pursuant to *Section 14: Evaluation and Assessment* of these policies and procedures, the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation and assessment.

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

Natural environments means the day-to-day routines, activities and places that promote learning opportunities for an individual child and family, in settings such as the family’s home and community that are natural or typical for the child’s peer who has no disabilities.

Neglect or neglected child is defined in Delaware Administrative Code, Title 10, §901(18) and means a child who is in the care of a person who:

- A. Is responsible for the care, custody, and/or control of the child; and
- B. Has the ability and financial means to provide for the care of the child; and
 - 1. Fails to provide necessary care with regard to food, clothing, shelter, education, health, medical or other care necessary for the child’s emotional, physical, or mental health, or safety and general well-being; or
 - 2. Chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child’s ability to receive care necessary for that child’s safety and general well-being; or

3. Fails to provide necessary supervision appropriate for a child when the child is unable to care for that child's own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caretaker's absence, and the context of the child's environment.

Parent, within early intervention services means:

- A. The biological or adoptive parent of a child; or
- B. A foster parent; or
- C. A guardian in a parental relation to the child authorized to act as the child's parent or authorized to make early intervention, educational, health or developmental decisions, but not the State if the child is under the jurisdiction of a court; or
- D. An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare; or
- E. A surrogate parent who has been appointed in accordance with 34 C.F.R. §303.422.

Part C means Part C of the Individuals with Disabilities Education Act (IDEA) of 2004 that addresses infants and toddlers, birth through two years of age, with developmental delays or disabilities, or physical or mental conditions with a high probability of resulting in significant delays in development, in accordance with 34 C.F.R. §303, et seq.

Participating agency means, as used in early intervention services, any individual, agency, program or entity that collects, maintains, or uses personally identifiable information to implement the requirements and regulations of Part C of the IDEA with respect to a particular child.

- A. This includes:
 1. The Department of Health and Social Services, Birth to Three Program and Child Development Watch Program;
 2. The Department of Education, Office of Early Learning; and
 3. Any individual or entity that provides any Part C services, including service coordination, evaluations and assessments, and other Part C services.
- B. This does not include:
 1. Primary referral sources; or
 2. Public agencies, such as the Medicaid program, private entities, or private health insurance carriers, that act solely as funding sources for early intervention services.

Personally identifiable information, as used in early intervention services means, but is not limited to:

- A. The infant or toddler's name or that of the parent or other family member;

- B. The address of the infant or toddler or their family;
- C. A personal identifier, such as a Social Security number or other biometric record;
- D. Other indirect identifiers such as the child's date of birth, place of birth, or mother's maiden name; or
- E. A list of personal characteristics or other information, which would make it possible to identify the child with reasonable certainty.

Physical development means a child's vision, hearing, gross and fine motor development, quality of movement, and health status.

Primary Service Provider Model means a model of service delivery that utilizes one main qualified provider from any discipline that is the best fit to address the child and family outcomes as identified in an IFSP. Other team members support the primary service provider through teaming and may provide co-visits under this model.

Prior written notice for early intervention services means written notice that is given to parents a reasonable time before a proposal or refusal to initiate or change the identification, evaluation, placement of the infant or toddler, or the provision of appropriate early intervention services to the child and family.

Qualified personnel means personnel who have met the state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations, assessments or early intervention services.

Referral for early intervention services means a verbal or written notification from a referral source to Child Development Watch Program for the provision of information regarding an infant or toddler, birth through two years of age, for evaluation and assessment, in order to identify those who are in need of early intervention services, in accordance with *Section 11: Referral* of these policies and procedures.

Screening means the process to identify, through easily administered procedures or observations, children who may need to be referred for a multidisciplinary evaluation to determine if they are eligible for Delaware's Infants and Toddlers Early Intervention Program.

Service coordination means the activities carried out by a service coordinator to assist and enable a child and their family to determine eligibility for Delaware's Infants and Toddlers Early Intervention Program, and to receive the rights, procedural safeguards, and services that are authorized to be provided, in accordance with *Section 12: Service Coordination* of these policies and procedures.

Social and emotional development means a child's ability to understand the feelings of others, control their own feelings and behaviors, and get along with peers.

Statewide data system is the data collection system used to capture the electronic record data for a child referred to the Infants and Toddlers Early Intervention Program. If eligible, information about their eligibility, evaluation and assessment, early intervention services, transition and other required data, is also captured.

Surrogate parent means an individual appointed by the Birth to Three Program to act in the place of a parent in safeguarding an infant's or toddler's rights in the decision-making process regarding evaluation, assessment, development of the IFSP, delivery of early intervention services and transition planning.

Telehealth means a method of service provision that utilizes secure interactive videoconferencing to deliver early intervention services.

Ward of the State means a child who, as determined by the state where the child resides is:

- A. A foster child (but not including a foster child who has a foster parent who meets the definition of a parent in this Section);
- B. A ward of the state; or
- C. In the custody of a public child welfare agency.

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Section 2: GENERAL SUPERVISION REQUIREMENTS

Policy Name:	2. General Supervision Requirements
Authority:	Federal: 20 U.S.C §1401, §1419, §§1431-1441, §§1476, et seq.; GEPA §427; 34 CFR Part 303 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §210 and §214
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2015, Revised 2020
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Purpose:

To define the responsibilities of the Birth to Three Program within the Department of Health and Social Services, the Lead Agency under Part C of IDEA, and the governance structure that the Birth to Three Program implements to provide a system of statewide early intervention services.

Policies:

- A. It is the policy of the State of Delaware to provide services for an infant or toddler, birth through two years of age, with a developmental delay or disability and his or her family through a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services. The Delaware Department of Health and Social Services, designated as the Lead Agency by the State's Governor and the Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §210, et seq., receives the federal Part C funds to administer the State's responsibilities of the federal Part C statute and regulations.
- B. The Director of the Department of Health and Social Services designates the Birth to Three Program to carry out the functions and activities of administering Delaware's Infants and Toddlers Early Intervention Program.
- C. The Birth to Three Program shall provide services consistent with the following requirements:
 1. The Delaware Administrative Code, Title 16, Chapter 2, Subchapter II.

2. The United States Code (U.S.C.), Title 20, Parts 1232, as amended January 2, 2013, 1401, 1419, 1431-1441 (the federal Individuals with Disabilities Education Act of 2004), U.S.C. Title 42, Part 1320, as amended (the Public Health Service Act), and Title 42, Part 9801 (the Head Start Act), and Title 42, Part 11431, as amended (McKinney-Vento Homeless Assistance Act) published by Office of the Law Revision Counsel of the U.S. House of Representatives, which are incorporated by reference; no later amendments or editions are included. These documents are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 and can be found at www.gpo.gov. The documents may also be examined at any state publications depository library and at the Birth to Three Program's Office.
 3. The Code of Federal Regulations (C.F.R.), Title 34, Part 303 published by the Office of the Federal Register, National Archives and Records Administration, which is incorporated by reference; no later amendments or editions are included. The document is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 and can be found on the Government Printing Office website at www.gpo.gov. The document may also be examined at any state publications depository library and at the Birth to Three Program's Office.
 4. The General Education Provisions Act (GEPA), §427 of the Improving America's Schools Act of 1994 that applies to applicants for new grant awards under the federal Department of Education which is incorporated by reference; no later amendments or editions are included. The document is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402, and can be found on the Government Printing Office website at www.gpo.gov. The document may also be examined at any state publications depository library and at the Birth to Three Program's Office.
- D. The Department of Health and Social Services is the lead agency in Delaware for Part C under IDEA. The Birth to Three Program, is responsible for the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and early intervention service providers receiving assistance under Part C of IDEA. These responsibilities include:
1. The monitoring of programs and activities to carry out Part C of IDEA (whether or not the programs or activities are administered by agencies, institutions, organizations, and early intervention providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of IDEA, including:
 - a. Monitoring agencies, institutions, organizations, and early intervention providers to carry out activities included in Part C of IDEA;

- b. Enforcing any obligations imposed on those agencies, institutions, organizations, and early intervention providers under Part C of IDEA;
 - c. Providing technical assistance, if necessary, to those agencies, institutions, organizations, and early intervention providers;
 - d. 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
 - e. Conducting the above activities, consistent with federal and state monitoring and enforcement, as outlined in 34 C.F.R. §303.700, et seq., and any other activities required under those sections.
2. The identification and coordination of all available resources for early intervention services within the State, including those from federal, state, local, and private sources;
 3. The assignment of financial responsibility;
 4. The development of procedures to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of IDEA in a timely manner, pending the resolution of any disputes among public agencies or early intervention providers;
 5. The entry into formal interagency agreements or other written methods of establishing financial responsibility that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures to resolve disputes, and procedures to ensure timely provision of early intervention services pending resolution of disputes among public agencies or service providers, and
 6. The implementation of funding and eligibility requirements of Part C of IDEA.
- C. The Child Development Watch Program, within the Department of Health and Social Services, Division of Public Health, has the operational responsibility for implementing the early intervention services to infants and toddlers, and their families, with developmental delays or disabilities in Delaware.
- D. In accordance with these policies and the Operations Manual, the Child Development Watch Program's responsibilities include oversight of the two regional Child Development Watch Programs and their contractors for the following, in accordance with these policies:
1. Identification of, potentially, Part C eligible children and their families;
 2. Referral and intake;
 3. Service coordination for Part C eligible families;
 4. Provision of procedural safeguards;

5. Evaluation for eligibility, if eligible, the child assessment and family assessment;
 6. If eligible, development and implementation of the Individualized Family Service Plan (IFSP);
 7. Provision of and/or referral for early intervention services;
 8. Transition planning and related activities;
 9. Engagement in informal and formal dispute resolution;
 10. Data and fiscal accountability; and
 11. Monitoring Child Development Watch staff and its contractors to ensure compliance with Part C of IDEA and these policies and procedures.
- E. In accordance with these policies and the Interagency Agreement, all state agencies and contractors participating in the provision of early intervention shall cooperate with the Birth to Three Program and the Interagency Coordinating Council to ensure an effective system implementation, coordination, and nonduplication of early intervention activities.
- F. The Birth to Three Program has an ongoing collaborative relationship with the Delaware Head Start Programs and Child Development Watch that includes a letter of agreement to ensure:
1. Effective communication to ensure that children and families receive quality services;
 2. Eligible children are identified and enrolled in early intervention services; and
 3. Define which services and supports will be provided by each agency.
- G. Delaware has both large urban concentrations and rural areas necessitating attention to appropriate and fair distribution of resources in all early intervention programs.
1. Funds and resources are not distributed in a population driven formula since areas of greatest need may not have the largest population.
 2. The Birth to Three Program shall ensure that resources are made available under Part C for all geographic areas and counties within the State of Delaware.
 3. The Birth to Three Program shall ensure allocation of funds under Part C are distributed appropriately to all early intervention programs.
 4. The Birth to Three Program shall review all fund allocations at least annually to ensure equitable distribution of resources.
- H. The Birth to Three Program shall ensure that the statewide early intervention system is in effect and that appropriate early intervention services are available to all eligible children and their families by:

1. Ensuring that the public is informed about early intervention services and that parents know how to make referrals to gain access to services;
 2. Conducting child find activities including outreach and public awareness activities in the community to identify all potentially eligible children;
 3. Maintaining the Central Directory that includes a coordinated system of information and referral services for families of infants and toddlers with disabilities, and
 4. Disseminating information to primary referral sources, hospitals, health care providers, and parents, with a special emphasis on premature infants or infants with physical risk factors associated with learning or developmental complications.
- I. The Birth to Three Program ensures that traditionally underserved groups, including Native Americans, other racial and ethnic minorities, low income, homeless, rural families, and children with disabilities who are in foster care, are meaningfully involved in the planning and implementation of all requirements of Part C through participation on the State Interagency Coordinating Council and other planning activities of the program.
- J. The Birth to Three Program ensures that these families have access to culturally competent services within their local geographical areas through:
1. Provider recruitment and training;
 2. Customized materials, and
 3. Individualized services.
- K. To meet the requirements under the General Education Provisions Act (GEPA), the Birth to Three Program:
1. Ensures that culturally and socio-economically diverse populations of infants and toddlers with disabilities and their families are served through the Infants and Toddlers Early Intervention Program;
 2. Is strongly committed to equal access and treatment for all infants and toddlers with disabilities and their families;
 3. Works closely with its State Interagency Coordinating Council to identify and address any barriers for families; and
 4. With its partner agencies, ensures that the statewide system of early intervention services provides an environment free from discrimination and harassment based upon gender, race, national origin, color, disability or age.

Procedures:

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Section 3: PUBLIC PARTICIPATION

Policy Name:	3. Public Participation
Authority:	Federal: 20 U.S.C. §1231d, §1221e-3, and §1437(a)(8); 34 C.F.R. §303.208 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §218
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2015, Revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the responsibilities of the Birth to Three Program to ensure that the public is informed and has an opportunity to provide input before any early intervention policies or procedures are created or revised and finalized.

Policies:

- A. Before submitting the Delaware Department of Health and Social Services' (DHSS) annual grant application for funds under Part C of Individuals with Disabilities Education Act (IDEA) , including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application, it will be published in a manner that ensures 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. These are the policies and procedures used by Delaware DHSS to ensure that, before adopting any new policy or procedure, including any revision to an existing policy or procedure, needed to comply with Part C of IDEA and these regulations, the Delaware DHSS Birth to Three Early Intervention Program:
 1. Holds public hearings on the new policy, including any revision to an existing policy;
 2. Provides notice of the hearings held, in accordance with (A) above of this policy, at least 30 days before the hearings are conducted to enable public participation; and

3. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, early intervention services providers, and the members of the Interagency Coordinating Council (ICC), to comment for at least 30 days on the new policy or procedure, including any revision to an existing policy or procedure needed to comply with Part C of IDEA and these regulations.
- C. The Application and any referenced policies and procedures shall be made available at:
1. Birth to Three Office, 1901 N. DuPont Highway, Main Administration Building, New Castle, DE 19720;
 2. Child Development Watch regional early intervention programs;
 3. Delaware News Journal and Delaware State News; and
 4. Delaware DHSS Register of Regulations.
- D. Within the 60 days, the general public shall have the opportunity to provide written or oral comments on the application materials for a period not less than 30 days. The general public shall include, but is not limited to:
1. Individuals with disabilities;
 2. Parents of infants and toddlers with disabilities;
 3. Early intervention providers; and
 4. Members of the ICC.
- E. Delaware's Birth to Three Program shall ensure that before adopting any new policy or procedure, including any revision to an existing policy or procedure needed to comply with Part C of IDEA and shall:
1. Hold public hearings on the new policy or procedure at the Birth to Three Office or in Kent and or Sussex counties;
 2. Provide notice of the hearings at least 30 days prior to the scheduled hearings to enable public participation. Notices are published in the Delaware News Journal and Delaware State News and Delaware DHSS Register of Regulations;
 3. Provide an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, early intervention services providers, and members of the ICC, to comment for at least 30 days on the new policy or procedure needed to comply with Part C of IDEA. Comments may also be emailed to: pam.d.weir@delaware.gov; and
 4. Comments from the public will be considered by the Delaware Birth to Three office and may result in modifications to the final application.

Procedures:

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Section 4: INTERAGENCY COORDINATING COUNCIL

Policy Name:	4. Interagency Coordinating Council
Authority:	Federal: 20 U.S.C. §1441; 34 C.F.R., §§303.600-605; and 42 U.S.C. §9837(b)(b)(1)(A)(i); §642B(b)(1)(A)(i) Head Start Act State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §214 and §217
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	New
OSEP Approval Date:	
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To assure that the Birth to Three Program maintains the Delaware Interagency Coordinating Council in accordance with Part C of the Individuals with Disabilities Education Act and the policies and procedures within these policies.

Policies:

- A. The Delaware Interagency Coordinating Council (ICC) advises and assists the lead agency on:
1. The identification of sources of fiscal and other support for early intervention services;
 2. Assignment of financial responsibility to appropriate agencies;
 3. Promotion of methods to ensure full participation, coordination and cooperation of all appropriate public agencies in the state;
 4. Preparation of applications and amendments for the Part C annual grant;
 5. Development of policies and procedures to facilitate a smooth, seamless system of transition for toddlers with developmental delays or disabilities to preschool services under Part B, or other services or programs as appropriate; and
 6. Preparation of the annual report to the Governor and the Office of Special Education Programs on the status of early intervention service programs for infants and toddlers with disabilities and their families.

7. Under IDEA Section 641(e)(1)(D) and 34 C.F.R. §303.604(c), the ICC of each jurisdiction that receives funds under Part C of the IDEA must prepare and submit to the Secretary of the U.S. Department of Education (Department) and to the Governor of its jurisdiction an annual report on the status of the early intervention programs for infants and toddlers with disabilities and their families operated within the State. The ICC may either: (1) prepare and submit its own annual report to the Department and the Governor, or (2) provide this certification with the State lead agency's State Performance Plan/Annual Performance Report (SPP/APR) under Part C of the IDEA.

B. The authorized activities of the Council are to:

1. Advise and assist the Department of Health and Social Services and the Delaware Department of Education regarding the provision of appropriate services to children with disabilities from birth through age five;
2. Advise appropriate state agencies about 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; and
3. Coordinate and collaborate with the Delaware State Advisory Council on Early Childhood Education and Care in accordance with Section 642B(b)(1)(A)(i) of the Head Start Act and, other interagency early learning activities, as appropriate.

C. The composition of the ICC shall be composed as follows:

1. At least 20 percent of the members shall be parents, including minority parents, of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged six years or younger;
2. At least 20 percent of the members shall be public or private providers of early intervention services;
3. At least one member shall be from the State legislature;
4. At least one member shall be involved in personnel preparation;
5. At least one member 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 and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies;
6. At least one member shall be from the State Educational Agency (SEA) responsible for preschool services to children with disabilities and shall

have sufficient authority to engage in policy planning and implementation on behalf of such agency.

7. At least one member shall be from agency responsible for the State Medicaid and CHIP Program;
8. At least one member shall be from a Head Start or Early Head Start agency of program in the State;
9. At least one member shall be from a State agency responsible for childcare;
10. At least one member shall be from the agency responsible for the State regulation of private health insurance;
11. At least one member shall be a representative designated by the Office of the Coordinator of Education of Homeless Children and Youth;
12. At least one member shall be from the State child welfare agency responsible for foster care;
13. At least one member shall be from the State agency responsible for children's mental health; and
14. And other members as determined by the Governor.

D. Appointments to the ICC:

1. The ICC members, including the chair, shall be appointed by the Governor.
2. Members appointed by the Governor shall reasonably represent the population of the state.
3. Members are appointed for three years per term and members can be reappointed for consecutive terms at the discretion of the Governor.
4. Any replacement appointment to the ICC to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.
5. A member may resign or may be removed by the Governor at any time.

E. Members of the ICC:

1. Shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the ICC; and
2. Are prohibited from casting a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

G. Meetings of the ICC:

1. Shall occur, at a minimum, on a quarterly basis, and in places it determines necessary;

2. Shall be publicly announced sufficiently in advance of the dates that they are to be held to ensure that all interested parties have an opportunity to attend;
3. To the extent appropriate, be open and accessible to the public;
4. As needed, provide for interpreters for persons who are deaf or other necessary services for members and participants; and
5. Federal Part C funds may be used to pay for those services.

Procedures:

- PR-A. The operational procedures of the ICC are defined in the *Delaware Interagency Coordinating Council By-Laws* that are available at <https://dhss.delaware.gov/dhss/dms/epqc/birth3/interagencycoordcouncil.html>.
- PR-B. Persons interested in applying for a position on the ICC shall complete the application form that is available at <http://governor.delaware.gov/boards-commissions/>.

Guidance and Related Documents:

Delaware Department of Health and Social Services, Policy Memorandum Number 70: Inclusion <https://dhss.delaware.gov/dhss/inclusion/files/pm70inclusionpolicy.pdf>

Section 5: FISCAL MANAGEMENT

Policy Name:	5. Fiscal Management
Authority:	Federal: 20 U.S.C §1432(4)(B), §§1435(a)(10)-(12), §§1437(a)(2) and (b), §1438, §1439(a), §1440; 34 C.F.R. §303.1, §§303.201-303.205, §§303.120-122, §§303.221-303.226, §303.500 et seq; 2 C.F.R. Part 200, EDGAR, and ED Guidance State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(7); and Chapter 10
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	New
OSEP Approval Date:	
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the fiscal responsibilities of the Birth to Three Program within the Department of Health and Social Services, the Lead Agency under Part C of IDEA, and the requirements to facilitate the coordination of payment for early intervention services from federal, state, local, and private sources.

Policies:

- A. The Birth to Three Program has the single line of authority to provide fiscal oversight, assign financial responsibility, and facilitate the coordination of payment from federal, state, local, and public and private sources used to implement the Infants and Toddlers Early Intervention Program, including:
1. The assurance that Part C funds are used as payor of last resort;
 2. The identification and coordination of resources for early intervention services;
 3. Assignment of financial responsibility, including fiscal controls for funds and property;
 4. Maintenance of a System of Payments policy, including a sliding fee scale and cost participation by families, that is described in *Section 6: System of Payments* of these policies and procedures;

5. Prohibition against supplanting, also known as maintenance of effort (MOE), as defined in *Section 1: Definitions* of these policies, is met;
 6. The assurance that Part C funds shall not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including:
 - a. Federal Part C funds are not commingled with state funds; and
 - b. Are used so as to supplement the level of state and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those state and local funds.
 7. The allowance to use federal Part C funds in order to prevent a delay in the timely provision of early intervention services in those cases when there is a pending reimbursement from an agency or entity who is ultimately responsible;
 8. Monitoring of funds and assuring the federal Part C funds are encumbered and expended within the required timelines; and
 9. The development and annual submission of the federal Part C grant, including the budget.
- B. The Birth to Three Program assumes the fiscal responsibilities noted above through its annual Part C application to the Office of Special Education Programs (OSEP).
- C. Effective October 1, 2020, the Birth to Three Program shall:
1. Not make use of Part C funds for the provision of free appropriate public education (FAPE) to toddlers with disabilities from their third birthday to the beginning of the following school year; and
 2. Not exercise the option to continue services to toddlers on or after their third birthday.
- D. The Infants and Toddlers Early Intervention Program does not provide services for at-risk infants and toddlers but does use federal Part C funds to ensure an effective, interagency child find system.
- E. Fiscal Controls
1. The Birth to Three Program ensures that fiscal control and fund accounting procedures have been adopted as necessary to ensure proper disbursement of, and accounting for, federal funds paid under Part C of IDEA.
 2. The Birth to Three maintains a policy in effect pertaining to contracting or making other arrangements with public or private service providers to provide early intervention services. The policy includes:
 - a. A requirement that all early intervention services provided by the Birth to Three Program and its intra-agency and interagency partners must meet the requirements defined in these policies;

- b. The mechanisms that the Birth to Three Program uses in arranging for these services, including the process by which contracts or other arrangements are made;
 - c. The basic requirements that must be met by any individual or organization seeking to provide these services; and
 - d. The Birth to Three Program assurance that when arranging for services, the State Procurement policies are followed.
- F. The Birth to Three Program maintains an Operations Manual with its partner agency, the Division of Public Health, Child Development Watch Program that assures that the Child Development Watch Program shall:
 - 1. Provide, or purchase through contracts, early intervention services, as defined in *Section 16: Early Intervention Services* of these policies and procedures, from providers that meet the qualifications as defined by the Birth to Three Program in *Section 17: Comprehensive System of Personnel Development*;
 - 2. Establish and maintain necessary cost accounting systems according to general accounting principles and Delaware's *Office of Management and Budget (OMB) Manual* to properly record, and allocate separately, the revenue and expenses for federal Part C of the Individuals with Disabilities Education funds, state-funded early intervention services, Medicaid funds and private health insurance funds that are billed through the Child Development Watch Program, local funds, and other funds used for the purchase of early intervention services; and
 - 3. Ensure that Part C of the Individuals with Disabilities Education Act funds are:
 - a. Used only as payor of last resort;
 - b. May be used to reimburse a parent for copayments and deductibles for early intervention services documented on his or her child's IFSP; and
 - c. For purposes of accounting, not commingled with any other funds received.
- G. The Birth to Three Program maintains a signed interagency agreement between the following state agencies who have financial and/or service provision responsibilities for infants and toddlers in the Infants and Toddlers Early Intervention Program:
 - 1. Department of Education;
 - 2. Department of Services for Children, Youth and Their Families; and
 - 3. Department of Health and Human Services.
- H. In the Operations Manual with the Division of Public Health/Child Development Watch Program and the interagency agreement noted above in *Section 5: Fiscal*

Management (F) and (G) of these policies and procedures, the Birth to Three Program maintains methods for resolving intra- or interagency disputes about early intervention payments, services, or other matters to ensure that there is a timely resolution of the issues and that no services for a child or family enrolled in the Infants and Toddlers Early Intervention Program are delayed or denied because of the dispute between agencies.

- I. The Birth to Three Program requires that any early intervention program or provider agency that expends \$750,000 or more during the program or agency's fiscal year in federal awards shall have a single or program-specific audit conducted for that year.
- J. The Birth to Three Program ensures that it:
 1. Makes reports in the form and containing the information that the Office of Special Education Program (OSEP) may require; and
 2. Keeps records and affords access to those records as the OSEP may find necessary to ensure compliance with the requirements of Part C of IDEA, the correctness and verification of reports, and the proper disbursement of funds provided under this Part C of IDEA.

Procedures:

- PR-A In circumstances related to interagency or intra-agency disputes about fiscal matters, the Department of Health and Social Services Billing Coordinator fields all of the initial fiscal disputes and brings them to the attention of the Part C Coordinator. The Part C Coordinator works with the Department's Budget Office and Unit Director for resolution.
1. During a dispute, the Birth to Three Program is responsible for assigning financial responsibility to the appropriate agency, dependent upon the facts and nature of the situation.
 2. If, during the course of the resolution of the dispute, it is determined that the assignment of financial responsibility was inappropriately made, then the Birth to Three Program shall reassign financial responsibility to the appropriate agency and make arrangements for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.
 3. Through the dispute resolution above, the Birth to Three Program ensures that services are provided to children who are eligible for the Infants and Toddlers Early Intervention Program and their families in a timely manner regardless of disputes regarding financial or other responsibilities.
- PR-B. The Birth to Three Program and the Child Development Program shall work together to enroll service providers who agree to provide services to eligible

children and families and utilize all available funding sources so that the federal Part C funds are the payor of last resort.

PR-C. When possible, the two programs will encourage providers to participate in the Medicaid managed care provider network.

Guidance and Related Documents:

System of Payments Policy Handout

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/systmpymntspolcy.pdf>

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Section 6: SYSTEM OF PAYMENTS

Policy Name:	6. System of Payments
Authority:	Federal: 20 U.S.C §§1435(10)(B)-(F), §§1438(1)-(2); 34 C.F.R. §§303.520-528 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(7)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	March 2017; technical revisions only – not applicable for public review and comment
OSEP Approval Date:	2017
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define policies and procedures developed to comply with the IDEA 2004 statute and regulations for Part C (effective October 28, 2011). These policies and procedures describe that when families with children who are eligible to receive early intervention services, through Delaware’s Infants and Toddlers Early Intervention Program, may share in the cost of early intervention services for their child by paying insurance premiums and by allowing early intervention providers to access their insurance coverage. Also, depending on the private insurance plan, out-of-pocket expenses may be incurred due to deductibles, co-pays, and/or co-insurance.

Policies:

- A. The Delaware Health and Social Services, Birth to Three Program assures that families shall not be charged for the cost of the following required functions, including:
1. Child find activities;
 2. Evaluations and assessments to determine initial and ongoing eligibility;
 3. Service coordination;
 4. Development, review and evaluation of the Individualized Family Service Plan (IFSP) or Interim IFSP;
 5. Transition services; and

6. Administrative and coordinative activities related to procedural safeguards, also known as Parent Rights.

B. Family Fees

1. The inability of a family to pay for services shall not result in a delay or denial of early intervention services, and if the family meets the State's definition of inability to pay, all early intervention services must be provided at no cost to the family.
2. The ability of an eligible child's family to pay for early intervention services is defined using the part of the Department of Health and Social Services Sliding Fee Scale at <https://www.dhss.delaware.gov/dhss/admin/policy/files/pm37.pdf> that applies to families above 290% of the poverty level.
3. The inability to pay is defined as a family living at or below 290% of the federal poverty level.
4. The following conditions shall apply to family fees:
 - a. Families living above 290% of the federal poverty level, who have denied access to public and private insurance, will pay 100% of cost-sharing or fees, although exemptions may be made due to financial hardships.
 - b. Families with public benefits or insurance, or private insurance, will not be charged disproportionately more than families who do not have public benefits or insurance or private insurance.
 - c. Families will not be charged an amount that exceeds the actual cost of providing a particular early intervention service, factoring in any amount received from other sources for payment for that service.
 - d. Families living at or below 290% of the federal poverty level are determined to have the inability to pay and are exempt from any cost-sharing or fees.
 - e. For those families with the inability to pay, if the parent consents to using private insurance to pay for early intervention services, the Birth to Three Program pays the co-pay and/or deductibles.
 - f. Ability to pay, family fees, copayments, and deductibles shall be discussed during the initial Individualized Family Service Plan (IFSP) meeting.
 - g. Notification of the determination of family fees shall be provided once the family submits the required documentation, and annually thereafter.

- C. Delaware's Infants and Toddlers Early Intervention Program is permitted, but not required, to use Part C or other funds to pay for costs such as deductibles, co-pays, or co-insurance.

- D. Part C funds may be used to prevent a delay in the timely provision of early intervention services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.
- E. The following shall be adhered to by the Department of Health and Social Services in developing Part C/Early Intervention provider contracts with vendors:
1. Vendors shall agree to bill Third Party insurance, including Medicaid, Delaware Healthy Children's Insurance Program (hereafter referred to as CHIP) and families, with parental consent, if required.
 2. Client fees shall be based on the Department of Health and Social Services (DHSS) Sliding Fee Scale when families over 290% of poverty, reference *Section F(2)* of this policy, and when use of public or private insurance is denied by the family.
 3. No client fees shall be charged if parents are below 290% of the poverty level.
- F. If a parent wishes to contest the imposition of a fee, or the State's determination of the parent's ability to pay, he or she may:
1. Request and participate in mediation in accordance with *Section 21: Dispute Resolution (C)* of these policies and procedures; and/or
 2. File a state complaint in accordance with *Section 21: Dispute Resolution (B)* of these policies and procedures; and/or
 3. Request a due process hearing in accordance with *Section 21: Dispute Resolution (D)* of these policies and procedures; and/or
 4. Use any other procedure established by the State for the speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights, including the right to pursue, in a timely manner, the options in *F(1)-(3)* above.
- G. The family's service coordinator shall inform parents of their procedural safeguards under this policy by providing parents with a copy of the System of Payments policy when obtaining consent for the provision of early intervention services at the initial, annual, or review of the IFSP, in accordance with *Section 15: Individualized Family Service Plan* of these policies and:
1. Inform the family that deductibles, co-pays, and co-insurance fees are the financial responsibility of the family, unless it is determined the family is unable to pay; and
 2. Explain and provide a copy of the *System of Payments Policy Handout* to each family during the initial home visit conducted by the service coordinator as part of discussion of the *Guide to Parent Rights*.
- H. Use of both public and private insurance to pay for early intervention services:

1. Families who have both private insurance and public benefits or insurance shall be informed that payment for services shall be billed in the following sequential order:
 - a. First to be billed is private insurance;
 - b. Second to be billed is public benefits or insurance; and
 - c. Third to be billed is the federal Part C payor of last resort fund.
2. When families have both private insurance and public insurance, the use of private insurance is a prerequisite to the use of public insurance, if the parent has provided parental consent, in accordance with *Section 20: Procedural Safeguards* of these policies, to use private insurance to pay for early intervention services for his or her child, and includes:
 - a. Parental consent for the initial provision of an early intervention service in the IFSP; and
 - b. Each time parental consent for services is required due to an increase in frequency, length, duration, or intensity in the provision of services in the child's IFSP, in accordance with *Section 20: Procedural Safeguards* of these policies.
- I. A service coordinator shall provide a copy to the parent of the *System of Payments Policy* handout during the initial home visit covering procedural safeguards and shall inform the family:
 1. Of the potential costs that the parent may incur as a result of using their private insurance to pay for early intervention services;
 2. That the policy shall be offered to the parent again anytime consent is needed to increase services in the child's IFSP;
 3. In cases where these out-of-pocket expenses are high and the family cannot pay the full cost without causing financial hardship, the family may request to complete the Delaware *Early Intervention Financial Assistance Form* for consideration of financial assistance towards a reduction or waiver of these costs based on the family's ability to pay; and
 4. That no other cost shall be billed to families after out-of-pocket expenses for early intervention services.
- J. Any available private and public health insurance, including any medical program administered by the Secretary of Defense, such as Tricare, shall be utilized to pay for Part C services, provided parental consent has been provided.
- K. Financial hardship is defined as when families are willing but unable to meet their financial obligations because of unexpected events or unforeseen changes that impact cash flow, including but not limited to:
 1. A change in income or expenditures;
 2. Any significant and/or ongoing medical expense(s);
 3. A change in employment status (i.e. loss of job or reduced hours);

4. A significant life effect (i.e. divorce, relationship breakdown, injury, illness or death in the family); or
 5. An emergency or natural disaster.
- L. Use of public benefits or insurance to pay for early intervention services
1. The parents shall not be required to sign up for or enroll in a public benefits or insurance program as a condition for their child to receive early intervention services if that child or parent is not already enrolled in a public benefits or insurance program.
 2. The service coordinator shall provide prior written notice, using the *Notification of Medicaid Assess Form* prior to using Medicaid and Delaware Heathy Children's Insurance Program, and in addition:
 - a. The service coordinator shall obtain consent prior to program using public insurance of a child or parent if that child or parent is enrolled in such a program after being determined eligible for early intervention services;
 - b. If the parent does not provide consent for the use of the child's or parent's public insurance when such consent is required, the early intervention services shall still be made available the services identified in the IFSP to which the parent has provided consent for initiation; and
 - c. Because the Medicaid and the Delaware Heathy Children's Insurance Program are administered by the DHSS, the same agency that administers the Infants and Toddlers Early Intervention Program, the service coordinator is not required to gain parental consent for disclosure of personally identifiable information for billing purposes from parents who are enrolled in these two public benefits and insurance programs.
 3. The Birth to Three Program assures that the use of Medicaid and CHIP shall not:
 - a. Decrease available lifetime coverage or any other insured benefit for the child or parent;
 - b. Result in the child's parents paying for services that would otherwise have been paid for by the public benefits or insurance program;
 - c. Result in any increase in premiums or cancellation of public benefits or insurance for the child or parents; and
 - d. Risk the loss of eligibility for the child or the child's parents for home and community-based waivers based on total health-related costs.
- M. Families without insurance

1. The DHSS Sliding Fee Scale shall be applied as described above when families are uninsured and do not qualify for Medicaid or the Delaware Heathy Children’s Insurance Program.
2. If a family does not have insurance, they and their child shall not be denied or delayed early intervention services because they are unable to pay.

Procedures:

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Guidance and Related Documents:

System of Payments Policy Handout

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/systmpymntspolcy.pdf>

Infants and Toddlers Early Intervention Program Consent to Access Family’s Health Insurance Form

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/prtcfincialasstncefrm.pdf>

Notification of Medicaid Access Form

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/medcdaccsnotiffrm.pdf>

Infants and Toddlers Early Intervention Program Financial Assistance Form - Link pending

Guide to Parent Rights (Link pending)

Delaware DHSS Sliding Fee Scale (Policy Memorandum #37

<https://www.dhss.delaware.gov/dhss/admin/policy/files/pm37.pdf>

Section 7: DATA COLLECTION

Policy Name:	7. Data Collection
Authority:	Federal: 20 U.S.C. §1416(b)(2)(C)(ii)(II); §§1435(a)(9), (10)(A), (14); and §1442; 34 C.F.R., §§76.720, 80.25, §§303.11-12, §303.120, §303.511(e), §303.700(a)(1), § 303,700(b), § 303,700(d)(2), §303.701(c)(2), §303.702(b)(1)(ii), §303.704, and §§303.720-721 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(8)(b)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	New
OSEP Approval Date:	
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the administrative requirements used to ensure that the state has a statewide data system for compiling and reporting timely and accurate data that meets the requirements of IDEA, Part C. These data play a critically important role in decision-making to ensure that the state has a system that supports the developmental outcomes of infants and toddlers with disabilities and their families, as well as ensures the early intervention services are provided in compliance with the federal and state regulations.

Policies:

A. The Birth to Three Program ensures:

1. Delaware has a system for compiling and reporting timely and accurate early intervention data;
2. The data system includes a description of the process the Birth to Three Program uses to compile data on infants or toddlers with disabilities receiving early intervention services;
3. Data compiled reflect the data targets established in the State Performance Plan (SPP) and the priority areas to monitor and analyze the

performance of the Child Development Watch Program in implementing part C of IDEA;

4. All staff entering client data into the state's electronic record database are appropriately trained with the understanding of process data flow and methodology logic of the data system; and
 5. The protection of identifiable data utilizing Federal and State guidelines.
- B. For reporting purposes, the Birth to Three Program shall:
1. Ensure all results compiled through data extracts from the states electronic record database are valid and reliable;
 2. Annually report publicly through an Annual Performance Plan (APR) on the performance of the Child Development Watch Program on the targets established in the SPP through the following indicators and data sources:
 - a. Indicator 1: Timely provision/delivery of early intervention services (Monitoring Data);
 - b. Indicator 2: Services provided in the Natural Environment (Child Count and Settings data);
 - c. Indicator 3: Early Childhood Outcomes (COS data);
 - d. Indicator 4: Family Involvement (Family Survey data);
 - e. Indicator 5: Child Find – Birth to One (Child Count Data);
 - f. Indicator 6: Child Find – Birth to Thirty-six months (Child Count Data);
 - g. Indicator 7: The 45- Day timeline – (Monitoring data);
 - h. Indicator 8a: Early Childhood Transition – Transition Steps (Monitoring Data);
 - i. Indicator 8b: Early Childhood Transition – Notification of potentially Part B eligible infants and toddlers - (Transition Notification Report Data); and
 - j. Indicator 8c: Early Childhood Transition – Transition Conferences held within the timeline of at least 90 days before and not more than nine months prior to the toddlers third birthday, at the discretion of the IFSP team (Monitoring Data).
 3. Annually report data for the Child Count and Settings Report:
 - a. The number and percentage of infants and toddlers with disabilities in Delaware, receiving early intervention services on any date between October 1 and December 1 each year; and
 - b. The race, gender, and ethnicity of infants and toddlers who are receiving early intervention services, and includes any children reported by tribes, tribal organizations (Annual Child Count).

4. Annually report data for the Exiting Report:
 - a. The number and percentage of infants and toddlers with disabilities in Delaware receiving early intervention services who stopped receiving early intervention services during the year; and
 - b. The race, gender, and ethnicity of those infants and toddlers who stopped receiving early intervention services (Exiting Count).
5. Annually report the number of due process complaints, the number of hearings conducted, the number of mediations held, and the number of settlement agreements reached through such mediations (APR, Indicators 9 and 10).
6. Ensure that as soon as practicable, but no later than 120 days following submission of the report, the state and local performance data are:
 - a. Posted on the Birth to Three Program website;
 - b. Distributed to the media, and
 - c. Distribution to the early intervention service programs.

Procedures:

PR-A. The Birth to Three Program shall:

1. Ensure that new staff profiles will be created in as soon as possible and no more than three days after receiving notification of request for creation;
2. Provide training on Delaware's electronic record data system as soon as possible and within two weeks of the profile creation;
3. Provide opportunity for continuous technical assistance regarding Federal data reporting requirements; and
4. Provide the opportunity for continuous refresher training, for all staff, on data entry into Delaware's electronic record data system.

PR-B. The Child Development Watch Program data responsibilities shall include:

1. Requesting access to Delaware's electronic record data system, for all new staff, through State approved channels, in a timely manner once the new staff member has had a delaware.gov email address established;
2. Ensuring that all staff are trained by the Birth to Three Program Data Manager or designee, to enter required data into the Delaware's electronic record data system;

3. Ensuring that all data entered into Delaware's electronic records data system are:
 - a. Valid and reliable; and
 - b. Entered in a timely manner to ensure accurate data extracts.
4. Collaborating with the Birth to Three Program to develop and implement quality assurance procedures for data reporting requirements for federal and state purposes, so as not to duplicate efforts;
5. Ensuring access for federal representatives from OSEP, technical assistance advisors, the Birth to Three Program staff and other qualified individuals, specified by federal and state leadership, to aggregate or non-aggregate data captured in Delaware's electronic record data system;
6. Maintaining a complete file of all early intervention records, documents, communications, and other written and/or electronic materials which pertain to the operation of an early intervention program or the delivery of early intervention services for infants and toddlers who have been referred to the program to include, but is not limited to documentation of:
 - a. Referral Information;
 - b. Case/progress notes;
 - c. Insurance and system of payments information;
 - d. Parent consents;
 - e. Evaluation and assessment;
 - f. Eligibility determination;
 - g. Prior Written Notice forms;
 - h. The Individual Family Service Plan (IFSP);
 - i. Child Outcomes Measurements;
 - j. Early intervention services;
 - k. Transition steps and conference information;
 - l. Medical records as needed to assist in determining eligibility for the infant and toddler; and
 - m. Correspondence with the family, providers, and other individuals involved with the infant and toddler during their time with the Child Development Watch Program.
7. Ensuring that such paper records are kept onsite at the Child Development Watch Program for a period of three years after the date of closure of the record and stored in archives for 27 years, at the end

of which time they are destroyed in accordance with Federal and State Regulation.

Guidance and Related Documents:

Guide to Parent Rights (Link pending)

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Section 8: MONITORING

Policy Name:	8. Monitoring
Authority:	Federal: 20 U.S.C. §1416(b)(2)(C)(ii)(II); §1435(a)(9), § 1435(10)(A), § 1435(14); and §1442; 34 C.F.R., §76.720, §80.25, §303.120, §303.511(e), §303.700(a)(1), § 303.700(b), § 303.700(d)(2), §303.701(c)(2) and §303.702(b)(1)(ii) State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(7)(b)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2010, Revised 2020
OSEP Approval Date:	2010
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To provide policies and procedures for the Birth to Three Program monitoring system that focuses on improving early intervention results and functional outcomes for eligible infants and toddlers with disabilities and their families and ensuring compliance with federal and state regulations, standards, and requirements.

Policies:

A. The Birth to Three Program is responsible for:

1. The public supervision and monitoring of early intervention programs and its providers and contractors to improve the quality of services to children and families as well as to ensure compliance with federal and state laws;
2. Provision of technical assistance to Child Development Watch, early intervention service providers and contractors;
3. Correction of any noncompliance identified through monitoring as soon as possible and in no case later than one year after the Birth to Three Program identifies the noncompliance; and
4. Identification and coordination of available resources for early intervention services with Delaware, to include those from federal, state, local and private resources.

- B. The Birth to Three Program's primary focus on Delaware's monitoring activities shall be to improve early intervention results and functional outcomes for all infants and toddlers with disabilities through collaborative data review with the Child Development Watch Program and other early intervention service providers.
- C. The Birth to Three Program carries out its monitoring responsibilities in the following ways:
1. Annually the Birth to Three Program shall submit to the Office of Special Education Programs the State Performance Plan (SPP) and the Annual Performance Report (APR);
 2. Effective implementation of Delaware's *Infants and Toddlers Early Intervention Program Policies and Procedures*;
 3. Data policies and processes;
 4. Integrated monitoring activities;
 5. Improvement, correction, incentives, and sanctions;
 6. Effective dispute resolution;
 7. Technical assistance and professional development; and
 8. Fiscal management and monitoring.
- D. Based on the results of data collected during the annual chart review and monitoring process, the Birth to Three Program shall make annual determinations of the Child Development Watch Program and early intervention service providers, using the four categories designed by the United States Department of Education, Office of Special Education Programs (OSEP) as to the program's implementation of the requirements of IDEA, Part C:
1. Meets requirements;
 2. Needs assistance;
 3. Needs intervention; or
 4. Needs substantial intervention.
- E. Annual local program determinations are distributed to the individual programs and are used to guide the level of technical assistance provided to the program to ensure improvements and compliance, if needed.
- F. Integrated monitoring activities include the following:
1. Self-assessment procedures;
 2. Desk audits of program data;
 3. Focused data verification and analysis;
 4. On-site record reviews; and

5. Any other methods as determined by collaboration between the Birth to Three and Child Development Watch Programs.
- G. The Birth to Three Program monitors informal and formal dispute resolution data for each early intervention program to identify issues that warrant technical assistance, training, or corrective actions.
- H. The Birth to Three Program shall enforce the requirements of IDEA, Part C and these policies and procedures using one or more of the following enforcement mechanisms:
1. Assistance in identifying root cause of barriers to improvement or compliance and in the development of strategies to address the challenges;
 2. The provision of information to the Child Development Watch program of available state-approved sources of technical assistance, including a documented plan for addressing the areas of concern about adherence to policies and procedures or quality of practices within a specific time period;
 3. The provision of targeted technical assistance and training to specific staff within a program;
 4. The requirement of a collaborative effort between the Birth to Three and Child Development Watch programs, a corrective action or improvement plan to address systems issues that are impeding progress;
 5. Imposition of special conditions until improvements are made;
 6. Withholding funds, in whole or in part, to the early intervention program; or
 7. In extreme situations, suspending or terminating the funding for the early intervention program.

Procedures:

PR-A. The SPP and APR are posted on the Department's website at <https://dhss.delaware.gov/dhss/dms/epqc/birth3/regulatoryrpt.html>

1. The SPP includes:
 - a. Measurable indicators of the State's performance in specific statutory priority areas under Part C of IDEA;
 - b. Measurable and rigorous targets for the indicators; and
 - c. Improvement activities, timelines, and resources, which describe how the state will improve the implementation of the priority areas.
2. The measurable indicators include:
 - a. Compliance indicators that have required targets of 100%; and

- b. Performance indicators that have measurable and rigorous targets that are set by the state with broad stakeholder involvement.

PR-B. The Birth to Three Program annually reports 618 data to the OSEP and the public. These data include the following:

1. The number and percentage of children ages birth to one years old and ages birth through two years old, by race, gender, and ethnicity who are receiving early intervention services on December 1 of each year;
2. The number and percentage of children by race, gender, and ethnicity who from birth through two years stopped receiving early intervention services because of program completion or for other reasons; and
3. The number of written, signed complaints filed with the Birth to Three Program, and the number of mediations held that resulted in a mediation agreement.

PR-C. The annual determination levels are used to describe a program at one of the following using the indicators and factors identified in *PR-D(1)-(5)*:

1. Meets Requirements: Local program performance is at or above the target percentage for the State Performance Plan compliance indicators and other factors.
2. Needs Assistance: Local program performance on the compliance indicators is below the target percentage for one or two consecutive years and other factors.
3. Needs Intervention: Local program performance on the compliance indicators is below the target percentage for three consecutive years and other factors.
4. Needs Substantial Intervention: Local program performance on a given indicator is below the target percentage for four consecutive years.

PR-D. When the Birth to Three Program makes the annual local program determinations it takes into consideration each of the following:

1. Performance on compliance indicators;
2. Whether data submitted by the local early intervention program is valid, reliable, and timely;
3. Uncorrected noncompliance from other sources;
4. Any audit findings; and
5. At the Program's discretion may also consider:
 - a. Performance on performance indicators; and
 - b. Other information.

PR-E. The Birth to Three Program shall ensure that any instance in which a SPP/APR compliance indicator (Indicators 1, 7, and 8) is performed less than 100%, a finding of noncompliance shall be issued to the early intervention program.

PR-F. When there is a finding of noncompliance the following shall occur:

1. The Birth to Three Program issues a written notification of the requirement with which noncompliance is identified;
2. A summary of the data that details noncompliance; and
3. The requirement that the noncompliance be corrected as soon as possible, but no later than one year from the date of the written notification of the finding of noncompliance.

PR-G. During onsite record reviews, the Birth to Three Program uses the *Annual Compliance Chart Audit Tool* and follows the OSEP-approved *Procedure for the Identification and Correction of Non-compliance through Chart Monitoring*.

PR-H. The Birth to Three Program shall carry out monitoring activities to ensure that correction of noncompliance is verified and that a program has corrected all instances of noncompliance by:

1. A review of data that demonstrate correction of each individual instance of noncompliance;
2. A review of data that demonstrate that any required actions took place, although late, for timeline-specific requirements, unless the child is no longer receiving early intervention services; and
3. A review of subsequent data that demonstrate full compliance at 100%.

PR-I. If noncompliance is not corrected by the early intervention program within one year of the written notice and finding of noncompliance, the Birth to Three Program may impose sanctions, such as:

1. Revised and more stringent improvement strategies in the Correction Action Plan;
2. Onsite visits to further drill down on root causes of the noncompliance;
3. Additional data reporting requirements; and
4. Extensive training and technical assistance to staff to assist them in understanding the requirements related to the indicator(s) in which the noncompliance has occurred.

Guidance and Related Documents:

State Performance Plan and Annual Performance Report and Local Performance Reports <https://dhss.delaware.gov/dhss/dms/epqc/birth3/regulatoryrpt.html>

Annual Compliance Chart Audit Tool (2020)

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/annlcompchrtaudttool_2020.pdf

Procedure for Identification and Correction of Non-Compliance through Chart Monitoring

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/noncompchrtmonitor.pdf>

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Section 9: CENTRAL DIRECTORY AND PUBLIC AWARENESS

Policy Name:	9. Central Directory and Public Awareness
Authority:	Federal: 20 U.S.C §1432(5), §1435(a)(1), §1435(3), and §1435(5-7), §1437(a)(6); 34 C.F.R. §§303.116-117, and §303.300 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(3) and §213(5)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	New
OSEP Approval Date:	
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the types of activities that are in place to ensure that families and the general public are knowledgeable about the statewide early intervention services and that infants and toddlers who may have developmental delays or disabilities are identified in a timely manner.

Policies:

- A. Birth to Three Program shall maintain a Central Directory that is accessible to the general public on the Program's website at <https://dhss.delaware.gov/dhss/dms/epqc/birth3/centralsdirresource.html> and in a written format, upon request of a family, and includes accurate, up-to-date information about:
1. Public and private early intervention services, resources, and experts available in the State;
 2. Professional and other groups, including parent support, and training and information centers, such as those funded under Part C of IDEA, that provide assistance to infants and toddlers with disabilities eligible under Part C of IDEA and their families; and
 3. Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

- B. The Birth to Three Program and the Child Development Watch Program work with special education Administrative Units, the Interagency Coordinating Council, and, other community members, as necessary in order to develop a coordinated program of public awareness focusing on the identification of infants and toddlers with developmental delays or disabilities who may be eligible for early intervention services.
- C. The Birth to Three Program shall prepare and disseminate printed materials for the Infants and Toddlers Early Intervention Program and other products for families and the general public, as well as through state and local interagency efforts for outreach to primary referral sources, including hospitals, physicians, other health providers, child care providers and other public and non-profit agencies, to share information about the availability of early intervention services.
- D. The public awareness materials for parents and professionals on the availability of early intervention Part C services include information describing:
 - 1. The Infants and Toddlers Early Intervention Program; and
 - 2. The Child Find system including:
 - a. The purpose and scope of the Child Find activities;
 - b. How to make referrals for evaluations and early intervention services;
 - c. How to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services;
 - d. The central directory of services; and
 - e. The requirement that parents of toddlers with disabilities are informed of the availability of public preschool special education services under 619 of IDEA not fewer than 90 days prior to the toddler's third birthday.

Procedures:

- PR-A. Public awareness activities provide information to the general public about the Infants and Toddlers Early Intervention Program to the following sources:
- 1. Families;
 - 2. Hospitals;
 - 3. Physicians and other healthcare providers;
 - 4. Social service agencies;
 - 5. Childcare programs;
 - 6. Education agencies; and

7. Other professionals.

PR-B. The Birth to Three Program develops and distributes brochures, the *Guide to Parent Rights*, and the website link to the Central Directory.

PR-C. The Central Directory contains information about, and provides links to:

1. Local early intervention programs and professionals and other groups across the State who provide assistance to eligible children and their families, including contact information;
2. Websites of service and advocacy agencies;
3. Laws and regulations; and
4. Links to other websites that provide information on research and demonstration projects being conducted in the State.

PR-D. The information contained within the Central Directory on the Department website shall be reviewed at least annually and updated, if necessary.

Guidance and Related Documents:

Infants and Toddlers Early Intervention Program website resources and *Central Directory* <https://dhss.delaware.gov/dhss/dms/epqc/birth3/centraldirresource.html>

Guide to Parent Rights (Link pending)

Section 10: CHILD IDENTIFICATION

Policy Name:	10. Child Identification
Authority:	Federal: 20 U.S.C §1432(5), §1435(a)(1), § 1435(3) and §§1435(5-7), §1437(a)(6); 34 C.F.R. §§303.115-117, §§303.300-303, §303.310 and §§303.320-322 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(3)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	October 2014, Revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the policies and procedures that are followed to ensure that all infants and toddlers in Delaware who are potentially eligible for early intervention services are located, identified, and referred to the Infants and Toddlers Early Intervention Program for evaluation.

Policies:

- A. The Infants and Toddlers Early Intervention Program shall have a comprehensive Child Find system, that focuses on the early identification of infants and toddlers who have developmental delays or disabilities, including a system for making referrals so that timely and rigorous identification, in accordance with *Section 11: Referral* of these policies and procedures, shall occur.
- B. The Birth to Three Program and its partner agency, Child Development Watch, shall work collaboratively with community partners and primary referral sources to develop effective procedures for referral of children, birth through two years of age, to the Infants and Toddlers Early Intervention Program, in order to identify infants and toddlers who are in need of early intervention services.
- C. The Birth to Three Program ensures that all infants and toddlers with disabilities in the State who are eligible for early intervention services under Part C of IDEA are identified, located, and evaluated, utilizing the following criteria:

1. Indian (Native American) infants and toddlers with disabilities residing on reservation geographically located in the State including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based, in part, on the information provided by them to the Birth to Three Program;
 2. Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and
 3. Infants and toddlers with disabilities.
- D. The Birth to Three Program ensures that an effective method is developed and implemented to identify children who are in need of early intervention services and is:
1. 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, including Indian tribes that receive payments under IDEA, Part C, and other Indian tribes, as appropriate; and
 2. Coordinated with the efforts of the following:
 - a. The program at the Delaware Department of Education authorized under part B of the Act;
 - b. The Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act, as amended, (MCHB or Title V);
 - c. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act;
 - d. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000;
 - e. Head Start Act (including Early Head Start programs under section 645A of the Head Start Act);
 - f. Supplemental Security Income program under Title XVI of the Social Security Act;
 - g. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA);
 - h. Childcare programs in the State;
 - i. Programs that provide services under the Family Violence prevention and Services Act;
 - j. Early Hearing Detection and Intervention (EHDI) systems administered by the Centers for Disease Control (CDC); and
 - k. The Children's Health Insurance Program (CHIP).

E. The Birth to Three Program ensures that:

1. There will not be unnecessary duplication of effort by the programs; and
2. It will make use of the resources available through each public agency and early intervention provider in the State to implement the child find system in an effective manner.

Procedures:

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Guidance and Related Documents:

Child Development Watch brochure for families – English

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/cdwparents_english11.pdf

Child Development Watch brochure for families – Spanish

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/cdwparents_spanish11.pdf

Guide to Parent Rights (Link pending)

Delaware Department of Health and Social Services, Policy Memorandum Number 70: Inclusion <https://dhss.delaware.gov/dhss/inclusion/files/pm70inclusionpolicy.pdf>

Section 11: REFERRAL

Policy Name:	11. Referral
Authority:	Federal: 20 U.S.C §1412(a)(3)(A), §1431, §1434(1), §1435(a)(2), §§1435(5)-(6), §1435(c)(2)(G), §1437(a)(6) and § 1437(10), and 1§441; 34 C.F.R. §303.303. State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(3)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2014 and 2015, Revised 2020
OSEP Approval Date:	Includes polices approved in 2014 and 2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the requirements and procedures for a referral of an infant or toddler with or suspected of having a developmental delay or disabilities to the Infants and Toddlers Early Intervention Program as soon as possible, but in no case more than seven days, after the infant or toddler has been identified.

Policies:

- A. The Birth to Three Program ensures the referral of an infant or toddler birth through two years of age who are:
 1. At risk of suffering a developmental delay should early intervention services not be provided; or
 2. Is the subject of a substantiated case of child abuse or neglect; or
 3. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
- B. The Birth to Three Program shall identify primary referral sources who are required to refer an infant or toddler with or suspected of having a developmental delay or disabilities to Delaware Infants and Toddlers Early Intervention Program as soon as possible, but in no case more than seven days, after the infant or toddler has been identified.
- C. Primary referrals sources are defined as:

1. Hospitals, including prenatal and postnatal care facilities;
2. Physicians;
3. Parents, including parents of infants and toddlers;
4. Childcare programs and early learning programs;
5. Local education agencies (LEAs) and schools;
6. Public health facilities;
7. Other public health or social service agencies;
8. Other clinics and health care providers;
9. Public agencies and staff in the child welfare system, including child protective service and foster care;
10. Homeless family shelters; and
11. Domestic violence shelters and agencies.

D. The Birth to Three Program shall ensure that all referrals for infants and toddlers and their families, who are referred to Delaware's Infants and Toddlers Early Intervention Program:

1. Are assigned a Family Service Coordinator in a timely manner; and
2. Within 45 days of the referral;
 - a. Are provided the opportunity to consent to participate in the program;
 - b. Are provided consultation on parental rights, procedural safeguards, system of payments, services in the natural environment and the process for transition from the program;
 - c. Are provided an evaluation and assessment by qualified individuals;
 - d. Have eligibility for the program determined;
 - e. If eligible:
 - 1) Have a child assessment to identify the child's unique strengths and needs and the identification of services appropriate to address those needs;
 - 2) Participate in a Family Assessment; and
 - 3) Participate in the development of an Individualized Family Service Plan (IFSP).
 - f. If ineligible:
 - 1) Are provided resources for next stages in development;
 - 2) Are afforded the opportunity to refer back to the program in six months for a re-evaluation; and

- 3) Are given information about the parent's right to dispute the eligibility determination through dispute resolution procedures described in *Section 20: Procedural Safeguards* of these policies and procedures.

Procedures:

- PR-A. The Birth to Three Program and Child Development Watch shall work collaboratively with primary referral sources to understand the need for a timely referral.
- PR-B. If the Child Development Watch Program receives a referral for a toddler within 45 days of the toddler's third birthday, with written parental consent, the referral shall be made directly to the local Part B/ 619 school district representative for screening and evaluation to determine eligibility for the Part B preschool special education program.
- PR-C. Upon receipt of a referral, the Child Development Watch program shall ensure that data entered into Delaware electronic record data system, for tracking and reporting is:
1. Valid and reliable; and
 2. Includes complete and accurate information from the referral source to assist in the assignment of the Family Service Coordinator (FSC).
- PR-D. The Child Development Watch Program shall ensure compliance with the closed-loop referral process as defined in *Section 1: Definitions* of these policies and procedures.
- PR-E. The Birth to Three and Child Development Watch programs shall work collaboratively to define an assignment process of the referral to a family service coordinator.

Guidance and Related Documents:

Child Development Watch Parent Brochure (English)

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/cdwparents_english11.pdf

Child Development Watch Parent Brochure (Spanish)

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/cdwparents_spanish11.pdf

Section 12: SERVICE COORDINATION

Policy Name:	12. Service Coordination
Authority:	Federal: 20 U.S.C., §1435(a)(4), §1426(d)(7); 34 C.F.R., §303.34, §303.343(a)(1)(iv), §303.344(g), §303.345(b)(1), and §303.521(b)(3) State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §212(h)(7)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	Revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the qualifications, required training, and responsibilities of an early intervention service coordinator.

Policies:

- A. Service coordination services (case management) means services provided by a service coordinator to assist and enable an infant or toddler with a disability and their family to receive the services and rights to include procedural safeguards, required under Part C of IDEA.
- B. The Birth to Three Program shall:
 1. Ensure the provision of one service coordinator (Family Service Coordinator) for each infant and toddler with a disability and their family, by the Child Development Watch Program;
 2. Ensure that all Child Development Watch Program staff are trained on the responsibilities of service coordination based on federal regulations to include but not be limited to:
 - a. Serve as a single point of contact for the infant and toddler and their family;
 - b. The active and ongoing service coordination process involving:
 1. Coordinating evaluations and assessments;

2. Facilitating and participating in the development, review and evaluation of Individualized Family Service Plans (IFSPs);
3. Conducting referral and other activities to assist in identifying available early intervention service providers, as determined by the IFSP team;
4. Coordinating, facilitating and monitoring the delivery of services, to ensure that the services are provided in a timely manner;
5. Conducting follow up activities to determine that appropriate services are being provided;
6. Informing families of their rights and procedural safeguards and related resources;
7. Coordinating the funding sources for services; and
8. Facilitating the development of a transition plan to preschool, school or other services upon the child's exit from the Child Development Watch Program.

C. A service coordinator shall:

1. Meet personnel standards as defined in *Section 17: Comprehensive System of Personnel Development* of these policies and procedures and those of the hiring agency; and
2. Complete the following:
 - a. Early intervention orientation training as soon as possible, but no later than 60 calendar days from date of hire; and
 - b. Other required training as determined by the Birth to Three Program and the Child Development Watch Program.

D. The service coordinator is responsible for ensuring that required information for each child referred for early intervention services is provided for entry into the statewide database in accordance with *Section 7: Data Collection* of these policies and procedures.

E. Service coordinators are responsible for maintaining early intervention records, as defined in *Section 7: Data Collection (C)* of these policies and procedures.

Procedures:

PR.A. The service coordinator shall:

1. Serve as the primary point of contact for carrying out the activities required under Part C and across agency lines;
2. Assist the family during the evaluation process to understand their rights and eligibility criteria;

3. If the infant or toddler is eligible for early intervention services, assist the family to understand and participate in the child and family assessment;
4. Throughout the family's early intervention experience, support the parent(s) and other caregivers and family members to understand their role(s) as the primary influence in the life of their infant or toddlers and help them participate as integral IFSP team members;
5. During the IFSP development process, help the family understand the infant's or toddler's strengths and needs as they relate to functional outcomes and daily life;
6. Assist the family to determine the strengths, needs, and resources of the family which may enhance their child's learning opportunities;
7. Assist the family in obtaining the supports needed for the family to participate as fully as desired in the development of their child; and
8. Support the family during the transition from early intervention services.

PR-B. The service coordination assignment may change during the time the infant or toddler is eligible for early intervention services when:

1. The needs of the infant or toddler or the family may be better served by a different professional on the team; or
2. The family requests a change of service coordinators.

PR-C. The service coordinator shall maintain at least monthly contact with a parent whose child is enrolled in early intervention services, including written, electronic, or phone communication, and shall document the contact in the child's record.

PR-D. The service coordinator shall maintain regular contact with the infant's or toddler's IFSP team to ensure that services are meeting the child's and family's needs.

Guidance and Related Documents:

Delaware Birth to Three Early Intervention Online Learning Modules for Service Coordinators (provided onsite according to a prearranged training schedule)

Implementing Part C Procedural Safeguards: A Step-by-Step Model
https://ectacenter.org/~pdfs/topics/procsafe/PartCProcedlSafegds-FlowChart_2012.pdf

Guide to Parent Rights (Link pending)

Section 13: Eligibility for Delaware’s Infants and Toddlers Early Intervention Program

Policy Name:	13. Eligibility for Delaware’s Infants and Toddlers Early Intervention
Authority:	Federal: 20 U.S.C §1432, §1435(a)(1), § 1435(3) and §§1435 (5-7), §1437(a)(6); 34 C.F.R. §§303.115-117, §§303.300-303, §303.310 and §§303.320-322, and §§303.420(a)(1)-(2) State: Delaware Administrative Code Title 14, 925; Title 16, Chapter 2, Subchapter II, §212(3), §213(2) and §213(3)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	October 2014, revised 2020, technical revisions only – not applicable for public review and comment
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the policies and procedures related to the eligibility criteria for early intervention services in Delaware for infants and toddlers, birth through two years of age.

Policies:

- A. An infant or toddler, birth through two years of age, shall be eligible for early intervention services if he or she has an established diagnosed physical or mental condition, as defined in *Section 13: Eligibility for Delaware’s Infants and Toddlers Early Intervention Program (B)* of these policies and procedures, or a developmental delay as defined in *Section 13(C)*.
- B. To establish eligibility based on the presence of an established condition as defined in *Section 1: Definitions* of these policies and procedures, the diagnosis must be confirmed by a licensed professional.
 1. The Birth to Three Program maintains an extensive list of established conditions.

2. An infant or toddler who qualifies for a birth mandate educational classification, according to Delaware Department of Education, specifically under the Administrative Code for Autism, Deaf-Blindness, Deafness, Hearing Impairment, and Visual Impairment Including Blindness shall qualify as an established condition for early intervention services.
3. The eligibility of an infant or toddler who has an established condition continues as long as the specific established condition exists, and the child is under three years of age.
4. No evaluation is needed for an infant or toddler with an established condition, however, a multidisciplinary assessment, as defined in *Section 1: Definitions* of these policies and procedures, is required to develop the Individualized Family Service Plan (IFSP).

C. Eligibility Determination for Developmental Delay is defined as:

1. An infant or toddler is considered to be experiencing a developmental delay that establishes eligibility for Part C if, as measured by appropriate diagnostic instruments and procedures, the child exhibits one or more of the following criteria:
 - a. A delay of 25% or greater when compared to age expected level of development in one or more of the following developmental domains: cognition, physical/motor, social-emotional, adaptive;
 - b. A delay of 25% or greater receptive language, without a delay in one of the other developmental domains;
 - c. Any delay in communication in conjunction with a delay of 25% or greater in one or more of the following developmental domains: cognitive, physical/motor, social-emotional, adaptive; or
 - d. At least 1.75 deviation below the mean in any developmental domain when measured by a normed, standardized instrument.
2. Developmental delay shall be determined through a timely, comprehensive, multidisciplinary evaluation that is defined in *Section 14: Evaluation and Assessment* of these policies and procedures and includes informed clinical judgment by the multidisciplinary team which utilizes qualitative and quantitative information. This process shall be clearly documented in the multidisciplinary team report.

Procedures:

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Section 14: Evaluation and Assessment

Policy Name:	14. Evaluation and Assessment
Authority:	Federal: 20 U.S.C §1417(c), §1432(4)(F), §1435(a)(3), §1435(a)(5), §§1436(a)(1)-(2), §1439(a)(2), §1439(a)(6), and §1442; 34 C.F.R. §303.31, §303.113, §§303.321-322, and §303.404 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §212(3) and §213(2)
Office:	Department of Health and Social Services, Division of Management Services, Birth to Three Program
Last Review Date:	October 2014; revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the policies and procedures related to the eligibility criteria for early intervention services in Delaware for infants and toddlers, birth through two years of age.

Policies:

A. The Birth to Three Program ensures that:

1. Parental consent is obtained for each child through two years of age who is referred for evaluation and assessment or early intervention services and suspected of having a disability;
2. A timely multidisciplinary evaluation (MDE) is conducted by qualified personnel to determine a child's initial and continuing eligibility for Delaware's Infants and Toddlers Early Intervention Program;
3. A timely initial, multidisciplinary assessment (MDA) of unique strengths and needs of the infant or toddler and the identification of appropriate services to meet those needs, as determined by the Individualized Family Service Plan (IFSP) team, is conducted prior to the child's first IFSP meeting;
4. With verbal agreement from each family member, a timely family-directed assessment of the resources, priorities and concerns of the family and the

identification of supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler is conducted;

5. That all evaluations and assessment of the child and family must be conducted by qualified personnel:
 - a. In a non-discriminatory manner; and
 - b. Administered so as not to be racially or culturally discriminatory.
 6. All evaluations and assessments of a child are conducted in the native language of the child, unless clearly not feasible to do so; and
 7. All family assessments are conducted in the native language of the family, unless clearly not feasible to do so.
- B. The Birth to Three Program ensures that for all evaluations:
1. No single procedure may be used as the sole criterion for determine a child's eligibility;
 2. Are conducted by qualified personnel;
 3. The evaluation includes each of the following:
 - a. An evaluation instrument;
 - b. The child's history (including interviewing the parent);
 - c. Identification the child's level of functioning in each of the developmental areas:
 - 1) Adaptive;
 - 2) Social Emotional;
 - 3) Cognitive;
 - 4) Physical, including health status, hearing and vision, fine motor and gross motor; and
 - 5) Speech/Hearing, including expressive and receptive speech.
 - d. Inclusion of information from other sources such as family members, other care givers, medical providers, social workers and educators to understand the full scope of the child's unique strengths and needs; and
 - e. The review of medical, educational or other records.
- C. The Birth to Three Program must ensure that all assessments of the child:
1. Are conducted by qualified personnel;
 2. For initial child assessment, includes review of the results of the evaluation;
 3. Includes the personal observations of the child; and

4. Identifies the child's needs in each developmental area.
- D. The Birth to Three Program must ensure that all family directed assessments are:
1. Conducted by qualified personnel trained to use the family assessment tool;
 2. Voluntary on the part of each family member participating;
 3. Based on information obtained through a family assessment tool and also through an interview with those family members who elect to participate in the assessment; and
 4. Inclusive of the family's descriptions of its resources, priorities and concerns related to enhancing the child's development.

Procedures:

- PR-A. Standardized, norm-reference evaluation measures, to be determined by collaboration by the Birth to Three and Child Development Watch programs, can be used as a multi-domain testing process or in single areas of stated concern to provide standard scores (standard deviation or percentile).
- PR-B. The Child Development Watch Program, for each child, will:
1. Obtain parental consent for the evaluation;
 2. Provide Prior Written Notice to the parent for evaluations, assessments, IFSP meetings, and transition meetings;
 3. Provide procedural safeguards to the family, including a description of the Delaware's dispute resolution policies as defined in *Section 21: Dispute Resolution* of these policies and procedures, as well as in the *Guide to Parent Rights*, as needed;
 4. Conduct the evaluation through measures established by collaboration between The Birth to Three and Child Development Watch programs;
 5. Determine whether the child is eligible or ineligible for the Delaware Infants and Toddlers Early Intervention Program; and
 6. If the child is eligible, complete a child and family assessment through measures established by collaboration between The Birth to Three and Child Development Watch programs.

Section 15: INDIVIDUALIZED FAMILY SERVICE PLAN

Policy Name:	15. Individualized Family Service Plan
Authority:	Federal: 20 U.S.C. §1435(a)(4), §1436, §1437(a)(9), and §1439(a)(3), 34 C.F.R. § 303.20, §303.24, §303.114, §303.126, §§303.340-346 and §§303.404-405 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §§213(4) and §214
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	March, 2015
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the requirements for the development, required participants, and components of the Individualized Family Service Plan that serves as the written plan for providing early intervention services to an infant or toddler with a disability and his or her family.

Policies:

- A. Individualized Family Service Plan (IFSP) shall serve as the written plan for an infant or toddler, from birth through two years of age, receiving early intervention services and shall be provided at no cost to the parent(s).
- B. The Birth to Three Program shall ensure:
 1. Prior written notice is provided to the parent before the interim, initial, annual, six-month and periodic reviews of the IFSP;
 2. The Initial IFSP meeting occurs within 45 days from the date of referral to Delaware's Infants and Toddlers Early Intervention Program;
 3. The only acceptable reasons for exceeding the 45-days timeline (SPP Indicator 7) are reasons of exceptional family circumstances, such as, but not limited to, preference of the family to postpone the evaluation and assessment or IFSP meeting or illness of the child;

4. That, should the IFSP meeting not be conducted within 45 days from the date of the referral, reasons for the exceptional family circumstances and non-exceptional family circumstances are documented in the child's record;
5. IFSP meetings are conducted:
 - a. In settings and at times that are convenient for 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.
6. An interim IFSP shall be developed to provide a temporary early intervention service prior to completion of an evaluation and assessment, only when the service is determined by qualified professionals to be immediately necessary and when the following conditions are met:
 - a. A child has been determined to be eligible for early intervention services;
 - b. Written parental consent is obtained; and
 - c. An evaluation and assessment are completed within 45 days of the date of the referral.
7. The contents of the IFSP shall be fully explained to the parents and informed written consent must be obtained prior to provision of any early intervention services;
8. The IFSP is developed by the IFSP team, whose members include:
 - a. Parent of a child;
 - b. Service coordinator;
 - c. Persons directly involved in conducting the evaluations and assessments;
 - d. As appropriate, a person or persons who will be providing early intervention services to a child or family; and
 - e. Additional participants may include, but are not limited to, the following:
 - 1) Other family members, as requested by a parent; and
 - 2) An advocate or person outside of a family, as requested by a parent.
9. If any person who conducted an evaluation and/or assessment is unable to participate in person, he or she shall participate by:
 - a. Telephone or Internet web conference;
 - b. A knowledgeable authorized representative attending the meeting in his or her place; or

- c. The provision of appropriate reports for use at the meeting.
10. The contents of the IFSP include:
- a. The results of the evaluation and assessment and the family's concerns and priorities;
 - b. A statement of the infant or toddlers with disability's present levels of development;
 - c. A statement of the family's resources, priorities, and concerns related to enhancing the development of the child;
 - d. A statement of measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family and the criteria, procedures and timelines used to determine:
 - 1) The degree to which progress toward achieving the results or outcomes identified in the IFSP, and
 - 2) Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.
 - e. A statement that includes, to the extent appropriate, medical or other supports and services necessary to achieve an outcome on the IFSP but not required under early intervention services definitions and funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources;
 - f. A statement of specific early intervention services, based on peer-reviewed research, to the extent practicable, that are necessary to meet the unique needs of the child and family to achieve the results or outcomes identified in the IFSP in accordance with *Section 16: Early Intervention Services* of these policies and procedures;
 - g. A statement that each early intervention service is provided in the natural environment for that child, to the maximum extent appropriate; and
 - h. Justification for not providing early intervention services in natural environment must be:
 - 1) Made by the IFSP team, including the parent; and
 - 2) Based on the child outcomes that are identified by the IFSP Team; and
 - 3) In settings other than the natural environment only when early intervention services cannot be achieved satisfactorily in a natural environment.

11. The annual, six-month and periodic review IFSP meetings must be conducted to evaluate and revise, the IFSP as appropriate, to include:
 - a. Results of any current evaluations and information from assessments; and
 - b. Use of the results in determining the early intervention services that are needed or are no longer needed for the child to continue to progress.

Procedures:

- PR-A. The service coordinator is responsible for assuring development and implementation of the IFSP and coordination with other agencies and persons.
- PR-B. It is the responsibility of the service coordinator to assist the family in preparing for the IFSP meeting, including an orientation to the IFSP process prior to the initial IFSP team meeting and providing the family with their parental rights.
- PR-C. Unique cultural characteristics and preferences of families should be taken into consideration in IFSP planning and the contents of the IFSP must be fully explained to the family before asking for their consent to services.
- PR-D. Prior written notice shall be provided to the family and other participants a reasonable time before the meeting and agrees to the development of the initial IFSP following an evaluation and assessment.

Guidance and Related Documents:

Delaware's Individualized Family Service Plan

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/ifsp.pdf>

Implementing Part C Procedural Safeguards: A Step-by-Step Model

https://ectacenter.org/~pdfs/topics/procsafe/PartCProcedSafegds-FlowChart_2012.pdf

Guide to Parent Rights (Link pending)

Prior Written Notice Form (Link pending)

It's Time to Transition

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/transition071508.pdf>

Section 16: Early Intervention Services

Policy Name:	16. Early Intervention Services
Authority:	Federal: 20 U.S.C. §1432(4), §1435(a)(2), §1436(a)(2), §§1436(d)(4)-(5); 34 C.F.R. §303.13, §303.16, §303.32, §303.442(d)(i) and §303.444 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §212(2)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	March 2015; revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To describe the early intervention services that are provided to eligible infants and toddlers and their families through the Infants and Toddlers Early Intervention Program.

Policies:

A. Early intervention services mean developmental services that:

1. Are provided under public supervision;
2. Are selected in collaboration with the parents;
3. Are provided at no cost, except where subject to these policies and procedures and *Section 6: System of Payments*, including a schedule of sliding fees;
4. Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist in supporting their infant's or toddler's development, as identified in the Individualized Family Service Plan (IFSP);
5. Meet the Delaware program standards, including the requirements of Part C of the IDEA;
6. Are provided by qualified personnel;

7. To the maximum extent appropriate, are provided in natural environments, as defined in this section and consistent with these policies and procedures; and
8. Are provided in conformity with an IFSP.

B. The Birth to Three Program assures that:

1. Early intervention services are:
 - a. Based on scientifically based research, to the extent practicable;
 - b. Are available statewide to all infants and toddlers with disabilities and their families; and
 - c. Are provided to meet the unique developmental needs of an eligible infant or toddler designed to:
 - 1) Enhance the capacity of a parent or other caregiver to support a child's well-being, development, and learning;
 - 2) Support full participation of a child in his or her community; and
 - 3) Meet a child's developmental needs within the context of the concerns and priorities of his or her family and the family's daily activities and routines.
2. All available resources that pay for early intervention services shall be identified and coordinated, including, but not limited to, federal, state, local, and private sources;
3. Early intervention services are initiated in a timely manner, as determined by the State of Delaware, to the maximum extent possible using the following criteria:
 - a. Delaware defines timely service delivery (SPP Indicator 1) as the actual service start date for an early intervention service to be within 30 days of the parent's consent for that service.
 - b. A statement of reason for exceptional and non-exceptional family circumstance surrounding a delay in service provision shall be documented in the child's electronic record in the statewide database, with supplemental documentation in the paper record, if appropriate.
4. Early intervention services include the following:
 - 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 an infant or toddler with a disability. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the

optimization (e.g., mapping) maintenance, or replacement of that device.

b. Assistive technology service means any service that directly assists a child in the selection, acquisition, or use of an assistive technology device, such as:

- 1) The evaluation of the needs of a child, including a functional evaluation of the child in the child's customary environment;
- 2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
- 3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- 4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- 5) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
- 6) Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of children with disabilities.

c. Audiology services include:

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

- d. Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child with a disability in understanding the special needs of the child and enhancing the child's development.
- e. Health services are services necessary to enable an otherwise eligible child to benefit from the other early intervention services.
 - 1) Health services include:
 - a) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and
 - b) Consultation by physicians with other service providers concerning the special health care needs of eligible infants and toddlers that will need to be addressed in the course of providing other early intervention services.
 - 2) Health services shall not include services that are:
 - a) Surgical in nature (cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);
 - b) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any pose);
 - c) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant;
 - d) Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and
 - e) Medical-health services (such as immunizations and regular "well-baby" care) that are routinely recommended for all children.
 - 3) Nothing in this section on health services limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.
 - 4) Nothing in this section prevents the early intervention program personnel from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of a child are functioning properly.

- f. Medical services mean services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.
- g. Nursing services include:
 - 1) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
 - 2) The provision of nursing care to prevent health problems, restore, or improve functioning, and promote optimal health and development; and
 - 3) The administration of medications, treatments, and regimens prescribed by a licensed physician.
- h. Nutrition services include:
 - 1) Conducting assessments of:
 - a) The child's nutritional history and dietary intake;
 - b) Anthropometric, biochemical, and clinical variables;
 - c) Feeding skills and feeding problems; and
 - d) Food habits and food preferences.
 - 2) Developing and monitoring of appropriate plans to address the nutritional needs of children eligible under Part C, based on the findings of the assessments above; and
 - 3) Making referrals to appropriate community resources to carry out nutrition goals.
- i. Occupational therapy includes:
 - 1) Services designed to address the functional needs of a child in related to adaptive development, adaptive behavior, play, and sensory, motor, and postural development.
 - 2) These services are designed to improve the child's functional ability to perform tasks in home, and community settings and include:
 - a) Identification, assessment, and intervention;
 - b) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
 - c) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

- j. Physical therapy includes:
 - 1) Those services identified to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation.
 - 2) Physical therapy services include:
 - a) Screening, evaluation, and assessment of children to identify movement dysfunction;
 - b) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - c) Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.
- k. Psychological services include:
 - 1) Administering psychological and developmental tests and other assessment procedures;
 - 2) Interpreting assessment results;
 - 3) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and
 - 4) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.
- l. Sign language and cued language services include:
 - 1) Teaching sign language, cued language, and auditory/oral language;
 - 2) Providing oral transliteration services, such as amplification; and
 - 3) Providing sign and cued language interpretation.
- m. Social work services include:
 - 1) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
 - 2) Preparing a social or emotional developmental assessment of the child within the family context;

- 3) Providing individual and family/group counseling with parents and other family members, and appropriate social skill-building activities with the child and his/her parents;
 - 4) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of a child and his/her family for which affect the child's maximum utilization of early intervention services; and
 - 5) Identifying, mobilizing, and coordination community resources and services to enable the child and his/her family to receive maximum benefit from early intervention services.
- n. Special instruction includes:
- 1) 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;
 - 2) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the child;
 - 3) Providing families with information, skills, and support related to enhancing the skill development of the child; and
 - 4) Working with the child to enhance his/her development.
- o. Speech-language pathology services include:
- 1) Identification of a child with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
 - 2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of a child with communication or language disorders and delays in development of communication skills; and
 - 3) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.
- p. Transportation and related costs include the cost of travel and other costs that are necessary to enable a child and his/her family to receive early interventions services.
- q. Vision services include:
- 1) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorder, delays, and abilities that affect early childhood development;

- 2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
 - 3) Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.
5. Nothing in this policy prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified above in *Sections 16 (A) and 16 (B)* of this policy.
- C. Early intervention services include the following criteria, as defined in *Section 1: Definitions* of these policies and procedures:
1. Length of time the service is provided during each session of that service (e.g. one hour of service);
 2. Duration of a given service, including the anticipated end date of the service for when the child is expected to achieve results or outcomes in their IFSP (e.g. six months, July 1-December 31, 2020);
 3. Frequency, usually shown as number of days or sessions that a service will be provided (one day a week);
 4. Intensity of the service refers to whether it is provided on an individual or group basis;
 5. Method for how the service is provided (e.g. co-visit, individual primary service provider, or supervision of a paraprofessional);
 6. Location describes the actual place or places where a service will be provided; and
 7. Payor responsibility for each service.

Procedures:

- PR-A. The IFSP team determines which early intervention services are needed for the infant or toddler and their family to include length, duration, frequency, intensity, method, and location of the service.
- PR-B. If a natural environment requirement creates a barrier to the implementation of the IFSP due to unique community or family circumstances, the IFSP Team will work to develop creative strategies that are consistent with the natural environment policy and responsive to the needs of the child and family.
- PR-C. The IFSP will identify the qualified early intervention personnel to support specific strategies and activities are made by the IFSP members and in accordance with the personnel standards defined in *Section 17: Comprehensive System of Personnel Development* of these policies and procedures.

Guidance and Related Materials:

Delaware Personnel Standards and Guidelines Matrix (2014)

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/depersstdguidematrix_2014.pdf

Guide to Parent Rights (Link pending)

Natural Environments Guidelines for the Delaware Birth to Three Early Intervention System

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/naturalenvironments.pdf>

DRAFT

Section 17: COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

Policy Name:	17. Comprehensive System of Personnel Development
Authority:	Federal: 20 U.S.C. §1432 (F)(i-xii), and §1435 (a)(9) and § 1435(b); 34 C.F.R. §303.19(a), §303.31 and §§303.119(b)-(d) State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(6)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	March 2015; revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose

To describe the comprehensive system of personnel development that ensures qualified personnel are available statewide to provide to early intervention services to eligible infants and toddlers and their families.

Policies:

- A. The Birth to Three Program ensures that early intervention services are provided by qualified providers who meet the state personnel standards for each early intervention service.
- B. The Birth to Three Program develops and maintains the following:
 1. Annual regulatory training;
 2. Other training that promotes best practices in early intervention;
 3. A training calendar and other information about available training and technical assistance for personnel; and
 4. Through monitoring activities, the identification of training and technical assistance needs among service coordinators, providers, and contractors.
- C. Early intervention providers shall maintain current and accurate documentation, including certifications, licensing, endorsements, and registrations and shall

register, and update his or her information at least annually, with the Child Development Watch Program.

- D. An early intervention provider shall complete all required training, as defined by the Birth to Three Program.
- E. Qualified personnel who provide early intervention services under Part C may consist of the following:
 - 1. Audiologists;
 - 2. Family therapists;
 - 3. Nurses;
 - 4. Occupation therapists;
 - 5. Orientation and mobility specialists;
 - 6. Pediatricians and other physicians for diagnostic and evaluation purposes;
 - 7. Physical therapists;
 - 8. Psychologists;
 - 9. Registered dieticians;
 - 10. Social workers;
 - 11. Early childhood special educators, including teachers of children with hearing and visual impairments;
 - 12. Speech and language pathologists; and
 - 13. Vision specialists, including ophthalmologists and optometrists.
- F. The personnel identified above in *Section 17(E)* of this policy do not comprise an exhaustive list of the types of qualified personnel that may provide early intervention services. Nothing in this section prohibits the identification of another type of personnel that may provide early intervention services in accordance with this part, provided such personnel meet the qualified personnel requirements.

Procedures:

- PR-A. The Birth to Three and Child Development Watch program will decide the provision of trainings and coaching supports to new staff.
- PR-B. The Birth to Three and Child Development Watch programs will work collaboratively with interagency partners to provide ongoing professional development.

Guidance and Related Materials:

Delaware Personnel Standards and Guidelines Matrix (2014)

https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/depersstdguidematrix_2014.pdf

Section 18: CHILD AND FAMILY OUTCOMES MEASUREMENTS

Policy Name:	18. Child and Family Outcomes
Authority:	Federal: 20 U.S.C. §1416(A); 34 C.F.R. §§303.701-702 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(8)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	New
OSEP Approval Date:	
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To describe the policies and procedures that the Birth to Three Program and its partner agencies follow to collect and report data on the progress made by children and families receiving early intervention services.

Policies:

- A. The Birth to Three Program, Child Development Watch Program and its contractors shall participate in the state program to measure child outcomes and shall ensure that each eligible child who receives early intervention services for six months or longer receives a child outcomes rating that is determined utilizing information gathered through the procedures and timelines defined in the Delaware *Child Outcomes Manual*.
- B. The Birth to Three Program ensures that Child Development Watch staff and contractors who are responsible for documenting and reporting child outcomes progress data are trained in the methods required by the Birth to Three Program and participate in required technical assistance activities.
- C. Child outcomes shall measure the percent of infants and toddlers with an Individualized Family Service Plan (IFSP), who:
 1. Have positive social emotional skills (including social relationships);
 2. Acquire and use knowledge and skills (including early language/communication); and

3. Use appropriate behaviors to meet their needs.
- D. The Birth to Three Program shall ensure the annual distribution of the statewide *Family Outcomes Survey* to each parent who has a child who is participating in early intervention services for at least six months.
 - E. The *Family Outcomes Survey* shall measure the percent of families who have a child participating in early intervention services for at least six months who report that early intervention services have helped the family:
 1. Know their rights;
 2. Effectively communicate their child's needs; and
 3. Help their child develop and learn.
 - F. The *Family Outcomes Survey* shall also measure additional factors as determined by the Birth to Three Program.

Procedures:

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Guidance and Related Materials:

Child Outcomes Manual

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/earlychildhoodmanual0518.pdf>

Family Survey Report

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/familyinfo.html>

Section 19: TRANSITION

Policy Name:	19. Transition
Authority:	Federal: 20 U.S.C. §1412(a)(3), §1412 (a)(9), §1436(a)(3), §1437(a)(9)); 34 C.F.R. §303.209, §303.344(h), §303.211 and §303.401; and EMAPS User Guide State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §§213(7), §214, and §215
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2015, Revised 2020
OSEP Approval Date:	2015
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To describe the policies and procedures that the Birth to Three Program and its partner agencies use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families as they transition out of early intervention services.

Policies:

- A. The Birth to Three Program shall ensure that transition planning occurs for any infant or toddler who are:
1. At age three, transitioning to preschool or other appropriate services for toddlers with disabilities (State Performance Plan (SPP) Indicators 8A-C); or
 2. Are exiting early intervention services for other reasons.
 - a. No longer eligible for Part C prior to reaching age three;
 - b. Not eligible for Part B, exit with referrals to other programs;
 - c. Not eligible for Part B, exit with no referrals;
 - d. Part B eligibility not determined;
 - e. Deceased;
 - f. Moved out of state;

intervention services to preschool special education services, under Part B of IDEA or other appropriate services; and

- b. A description of transition steps includes each of the following:
- 1) As appropriate, how the child and his or her family will exit from early intervention services;
 - 2) How a parent shall be informed of and included in the transition process, including a review of the future placements and the program options for the child from the child's third birthday through the remainder of the school year;
 - 3) Confirmation by the Child Development Watch Program that the basic personally identifiable information, has been transmitted to the LEA;
 - 4) With parental consent, confirmation of the transmission of additional information needed by the LEA to ensure continuity of services from early intervention services to preschool special education services, including a copy of the most recent evaluation and assessments of the child and the family, and the most recent IFSP;
 - 5) Procedures to prepare a child for changes in service delivery and strategies to help a child adjust to and function in a new setting; and
 - 6) Any transition services and other activities that the IFSP team identifies as needed by the child, or his or her family, to support the transition of the child.

D. The Child Development Program service coordinator shall provide notification to the SEA and the LEA, in accordance with B(1) of this policy, not fewer than 90 days before the third birthday of a toddler enrolled in early intervention services if that toddler may be eligible for preschool services under Part B of the Act (SPP Indicator 8B). Notification includes demographic information to ensure the LEA is able to contact the family.

E. The Child Development Program service coordinator shall provide the LEA, with written parental consent, current information for a child who is potentially eligible regarding the child's early intervention services, including assessment information, and a copy of the most current IFSP in order to assist in transition planning.

F. With documented verbal or written parental approval, a transition conference shall be convened no later than 90 days and, at the discretion of all participants, no earlier than nine months prior to a child's third birthday (SPP Indicator 8C).

1. For a child who is potentially eligible, the participants at a transition conference shall include:

- a. A parent of a child who is approaching three years of age;
 - b. The service coordinator; and
 - c. Representative(s) from the LEA.
- 2. In the event that a representative of the LEA does not attend the transition conference for a child who is potentially eligible, the service coordinator shall conduct a transition conference as scheduled.
- 3. A Child Development Watch service coordinator shall make reasonable efforts to convene a transition conference for a child who is not potentially eligible for preschool special education services to discuss appropriate services that the child may receive, with the documented verbal or written approval of the parent. The following participants shall attend the conference:
 - a. Parent of a child who is approaching three years of age;
 - b. Service coordinator; and
 - c. Providers of other appropriate services.
- G. If the transition conference is held in combination with the IFSP meeting to develop the transition plan, the requirements of *Sections 15: Individualized Family Service Plan (F) through (I) of these policies*, shall be met.
- H. The Child Development Watch Program shall terminate early intervention services on a child's third birthday, or earlier for a child whose parent elects to begin idea Part B preschool special education services provided through an Individualized Education Plan prior to the child's third birthday in lieu of receiving IDEA Part C early intervention services.

Procedures:

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Guidance and Related Materials:

Early Childhood Transition Operations Agreement between the Division of Public Health and the Division of Management Services in the Department of Health and Social Services, and the Department of Education

<https://www.dhss.delaware.gov/dhss/dms/epqc/birth3/files/sgnderlychldhdagmnt.pdf>

Guide to Parent Rights (Link pending)

Prior Written Notice Form (Link pending)

It's Time to Transition

<https://dhss.delaware.gov/dhss/dms/epqc/birth3/files/transition071508.pdf>

Section 20: PROCEDURAL SAFEGUARDS

Policy Name	20. Procedural Safeguards
Authority:	Federal: 20 U.S.C., §1232f and §§1232g et seq., §1401(23), §1415(e), §1439(a)(2), §§1439(a)(5-7), and §1442; 34 C.F.R. Parts 76, 80, and Part 99; 34 C.F.R. §303.7, §303.9, §§303.25-27, §303.29, §303.34, §303.37, §303.123, §§303.400 et seq. State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §§214-216
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	Technical revisions 2019, revised 2020
OSEP Approval Date:	2018
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the established procedural safeguards that meet the requirements of the Individuals with Disabilities Education Act and the procedures used to ensure the effective implementation of those safeguards.

Policies:

A. Confidentiality:

1. Parents referred to the Infants and Toddlers Early Intervention Program are afforded the right to confidentiality as defined in *Section 1: Definitions* of these policies and procedures, of personally identifiable information, including the right to written notice of, and written consent to the exchange of that information among agencies, consistent with federal and state laws.
2. This applies to the protection of personally identifiable information of a child and the child's family that is contained in early intervention records at the collection, maintenance, usage, storage, disclosure, or destruction stage by any participating agency (Birth to Three Program, Child Development Watch Program, Department of Education, or any service providing agency or individual contractor).

3. Each participating agency shall designate one person to be responsible for ensuring the confidentiality of personally identifiable information.
4. All persons collecting, exchanging, or using personally identifiable information shall receive training and instruction regarding state policies and procedures.
5. Each agency or provider shall maintain, for public inspection, a current list of the names and positions of employees who have access to personally identifiable information.
6. When an early intervention program or provider operates other programs in addition to an approved early intervention program, which follow other documentation and/or confidentiality requirements, early intervention records are subject to and:
 - a. Must meet the requirements of all applicable early intervention-related federal and state laws and regulations;
 - b. Under these circumstances, early intervention records must be maintained as distinct or removable from non-early intervention records; and
 - c. These records (paper, electronic, etc.) may not be shared or otherwise made available to the other programs without following all of the confidentiality requirements under IDEA, Part C, including FERPA (34 C.F.R. 99.22).

B. Notice to parents:

1. Notice about the confidentiality of early intervention records and the protection of personally identifiable information shall be provided to a parent of any child referred to the Infants and Toddlers Early Intervention Program, and shall include information about their safeguards under IDEA, including:
 - a. A description of the children on whom personally identifiable information is maintained, types of information sought, methods used to collect information (including sources from whom information is gathered), and uses of information by the Infants and Toddlers Early Intervention Program;
 - b. A summary of policies and procedures participating agencies must follow regarding storage, disclosure to third parties, retention and destruction of personally identifiable information;
 - c. A description of all rights of infants, toddlers, and parents regarding this information including rights under Part C of IDEA and FERPA, including the title and address of the person to whom requests to review records should be made; and
 - d. A description of the extent the notice is given in the native language of various population groups in the state.

C. Access Rights:

1. The right to inspect and review the early intervention record includes the following:
 - a. Each participating agency shall permit a parent to inspect and review any early intervention record related to their infant or toddler that is collected, maintained, or used as part of their early intervention services.
 - b. Each participating agency shall comply with the parent's request to inspect and review records without unnecessary delay, and in no case more than 10 days after the request has been made.
 - c. In circumstances where the parent has requested information related to an IFSP meeting or formal hearing to resolve a complaint, the agency or provider shall provide the records prior to the meeting or hearing at least five days before the proceeding.
 - d. A parent has the right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records.
 - e. A parent has the right to have a representative of the parent inspect and review the early intervention records.
2. For any record that includes information on more than one child, a parent has the right to inspect and review only the information related to their infant or toddler or to be informed of that specific information.
3. The participating agency shall presume the parent has authority to inspect and review records relating to his or her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.
4. The participating agency may refuse parental access to the following records:
 - a. Records of service, supervisory, and administrative personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
 - b. Records of a law enforcement unit of a public agency or private provider; and
 - c. Records relating to an individual who is employed by an agency or provider that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as employee, and that are not available for use for any other purpose, excluding records related to a parent who is

employed as a result of the parent's status as a recipient of services or as a result of the infant or toddler receiving services.

5. Each agency shall maintain a record of all parties obtaining access to records collected, maintained, or used, except access by parents or their authorized representative and employees of the agency, including:
 - a. The name of the party requesting access;
 - b. Date access was given; and
 - c. Purpose for which the party is authorized to use the early intervention records.

D. Fees for records:

1. A copy of the following documents shall be provided at no cost to the parent:
 - a. Each evaluation and assessment of the infant or toddler;
 - b. Family assessment; and
 - c. The IFSP as soon as possible after each IFSP meeting.
2. An agency or provider may charge a fee for copies of items in the record, other than those noted above in D(1)(a)-(c), that are made for parent upon request if the fee does not effectively prevent the parent from exercising his or her right to inspect and review the records, except an agency or provider may not charge a fee to search for or retrieve a record.

E. Amendment of records:

1. A parent may request that information in a record be amended, including deletion, if:
 - a. That information is inaccurate or misleading; or
 - b. That information violates the privacy of other rights of the parent's infant or toddler, or their family.
2. When a parent requests in writing to the early intervention program or service provider that a record be amended, the agency or provider must act on that request within 10 days from the time the request is received.
3. If the agency or provider refuses to amend the records as requested, it must:
 - a. Inform the parent of the refusal in writing; and
 - b. Advise the parent in writing that they have the right to a hearing under *Section 21: Dispute Resolution (D)* of these policies and procedures.

F. Opportunity for a hearing related to a record:

1. A request for a hearing is made to the Birth to Three Dispute Coordinator, who shall contact the parent to explain they have a choice of a hearing by

an individual, including an official of the Birth to Three Program, who does not have a direct interest in the outcome of the hearing, in accordance with FERPA (34 C.F.R. 99.22); or

2. May request a due process hearing following the procedures defined in *Section 21: Dispute Resolution (D)* of these policies and procedures.

G. Result of the hearing:

1. After the hearing, the Birth to Three Dispute Coordinator shall provide to all parties, written determination in accordance with the steps defined in *Section 21: Dispute Resolution (D)(9)* of these policies and procedures.
2. If the decision is that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, the agency or provider shall amend the record and inform the parent in writing.
3. If, as a result of the hearing, the decision is not to change the record, a parent shall be notified of their rights to prepare a statement of disagreement, which shall be maintained in the child's early intervention record and:
 - a. This information shall be maintained as part of the child's early intervention record as long as the record is maintained; and
 - b. If the record or contested part are disclosed by the agency or provider to any party, the explanation must also be disclosed to the party.

H. Consent prior to disclosure or use of information in the record:

1. Informed parental consent must be obtained before any disclosure of all personally identifiable information concerning a child, the child's parents, or another family member, except in the following circumstances:
 - a. A public agency or early intervention service provider may disclose confidential information to its employees who have a legitimate need for access to the information in order to provide early intervention supports and services.
 - b. Confidential information may be shared among employees within a division of state government on a need to know basis, but only between divisions in compliance with individual departmental guidelines on interagency sharing of information; or
 - c. Under FERPA (34 C.F.R. §99.31), disclosure of confidential information without parental consent may be made to:
 - 1) Authorized representatives of the Controller General of the United States, the U.S. Secretary of Education, or the Department that is responsible for the administration of the Infants and Toddler Early Intervention Program when the disclosure is in connection with an audit or evaluation of the Part C program or for ensuring the program's compliance

with legal mandates, and the representatives to whom the disclosure is made protect against further disclosures and destroy the information when no longer needed;

2) The State Education Agency (SEA) and local school district (LEA) in accordance with *Section 19: Transition* of these policies for the required transition notification.

3) Organizations conducting studies to develop, validate, or administer predictive tests, to administer financial aid programs, or to improve Part C services; and

a) The study is conducted in a manner that does not permit personal identification of parents, children, or family members;

b) The information is destroyed when no longer needed for the purposes of the study;

c) Accrediting organizations to carry out their functions; and

d) Comply with a judicial order of lawfully issued subpoena and a reasonable effort has been made by the disclosure to notify the parents in advance of compliance.

4) The eligible infant's or toddler's parent.

e. Each time a disclosure is made in circumstances noted above in *Section 20(M)(c)(3)(a)-(d)* of this policy:

1) The parent must be informed of that disclosure as soon as possible;

2) The disclosure must be recorded in the child's early intervention record and include the name of the party to whom the information was disclosed, the date of disclosure, and the purpose of disclosure; and

3) Upon parental request, provide the parent with a copy of the record that was disclosed.

I. Destruction of information:

1. The participatory agency who maintains the child's record shall inform a parent when personally identifiable information that is collected, maintained, or used is no long needed to provide services to the child.

2. Early intervention records shall be maintained by Child Development Watch for a period of three years after the date of closure of the record and stored in archives for 27 years, at the end of which time they are destroyed; however, a permanent record of the following may be maintained without time limit:

- a. A child's name;
- b. Child's date of birth;
- c. Parent contact information, including address and phone number;
- d. Names of service coordinator(s) and early intervention service provider(s); and
- e. Exit data, include year and age upon exit and any programs entered into upon exiting.

J. Parental Consent and Prior Written Notice:

1. Parental consent shall be obtained before:
 - a. All evaluations and assessments of a child;
 - b. Early intervention services are provided to a child or family;
 - c. Public benefits or insurance or private insurance is used if such consent is required as defined in *Section 6: System of Payments* of these policies and procedures; or
 - d. The disclosure of personally identifiable information consistent with *Section 20(M)* of this policy.
2. If a parent does not give consent, the service coordinator, or other member of the participating agency or provider, shall ensure that the parent:
 - a. Is fully aware of the nature of the evaluation and assessment of the child or the early intervention services that would be available; and
 - b. Understand that the child will not be able to receive the evaluation, assessment, or early intervention services unless consent is given.
3. The participating agency or provider may not use the due process hearing procedures in *Section 21: Dispute Resolution (D)* of these policies to challenge a parent's refusal to provide any consent that is required under *Section 20(O)(1)* of this policy.
4. The parent of an infant or toddler with a disability has to right to:
 - a. Determine whether he/she, the infant or toddler with a disability, or other family members will accept or decline any early intervention service at any time, in accordance with state law; and
 - b. May decline a service after first accepting it, without jeopardizing other early intervention services.
5. Prior written notice shall be provided to a parent a reasonable time before the participating agency or provide proposes, or refuses, to initiate or change the identification, evaluation, or placement of the infant or toddler, or the provision of early intervention services to the infant or toddler or their family, and:

- a. Participating agencies or providers shall maintain a copy of the notice and documentation of notification in the child's early intervention record.
- b. The content of the prior written notice must be in sufficient detail to inform the parents about the:
 - 1) Action that is being proposed or refused;
 - 2) Reasons for proposing or refusing the action; and
 - 3) All procedural safeguards available under the Part C statute and regulations and these policies and procedures.
- c. The notice shall be:
 - 1) Written in language understandable to the general public; and
 - 2) Provided in the parent's native language, unless it is clearly not feasible to do so.
- d. If the native language or other mode of communication of the parent is not a written language, the public agency or designated service provider shall take steps to ensure that:
 - 1) The notice is translated orally, or by other means, to the parent in the parent's native language or other mode of communication;
 - 2) The parent understands the notice;
 - 3) There is written evidence that the requirements of this policy have been met; and
 - 4) If the parent is deaf, blind, unable to read or have no written language, the information about the prior written notice must be provided in mode of communication normally used by the parent, such as sign language, Braille, or oral communication.

K. Surrogate Parent

1. A surrogate parent shall be appointed by the Birth to Three Program when:
 - a. No parent, as defined in *Section 1: Definitions* of these policies and procedures, can be identified;
 - b. The whereabouts of a parent cannot be discovered after reasonable efforts;
 - c. Custody has been awarded to the Department of Services for Children, Youth and their Families or other state agency by the Family Court; or

- d. The rights of the natural parents have been terminated by Family Court, no guardian has been appointed, and the infant/toddler has not been adopted and is considered a ward of the state, as defined in *Section 1: Definitions* of these policies and procedures.
2. The Birth to Three Program has the responsibility to provide a list of approved surrogate parents to the Child Development Watch Program where the Educational Surrogate Parent Coordinator shall make the selection of an individual to act as a surrogate for the parent through the following process as permitted by Delaware Code, Title §3132 and:
 - a. Determine whether a child needs a surrogate parent;
 - b. Review the referral form and select a surrogate based on the following criteria of a person who:
 - 1) Is not an employee of any agency involved in the provision of early intervention or other services to the child or any family member;
 - 2) Has no interest that conflicts with the interests of the child he/she represents; and
 - 3) Has knowledge and skills that ensure adequate representation of the child.
 - c. Assign a surrogate parent within 30 days after the determination that a child needs a surrogate parent; and
 - d. If the child is a ward of the state, a judge who is overseeing the infant or toddler's case may appoint a surrogate parent provided they meet the requirements in *Section 20(P)(2)(b)* of this policy.
 - e. The surrogate parent has all the rights of a natural or adoptive parent as they pertain to Part C and shall represent a child in all matters relating to:
 - 1) Evaluation and assessment of the child;
 - 2) The development, implementation, annual evaluation, and review of the IFSP;
 - 3) The consent for and initial and ongoing provision of early intervention services; and
 - 4) Any other rights under Part C.
 - f. A person, who otherwise qualifies as a surrogate parent, shall not be considered an employee of a public agency solely because he/she is paid by a public agency to serve as a surrogate parent.
 - g. A surrogate parent shall be reimbursed by the Birth to Three Program for all reasonable and necessary expenditures incurred in pursuit of their surrogate parent duties, including but not limited to:

- 1) Mileage for attendance at meetings concerning the infant or toddler;
- 2) Long-distance telephone calls concerning the child's services; and
- 3) Photocopying of the child's records.

Procedures:

- PR-A. All agencies and/or providers providing early intervention services, regardless of funding source, are required to abide by these safeguard policies and procedures.
- PR-B. The infant or toddler's service coordinator is responsible for ensuring that parents are informed of their rights that are defined in this *Section 20*.
- PR-C. The designated service coordinator maintains the infant's or toddler's entire record and ensures that all required documentation/information is included in the record.
- PR-D. Prior written notice shall be provided to parents when:
1. The family has initial contact with the early intervention system;
 2. The initial evaluation and assessment are proposed or refused;
 3. Eligibility determination is made;
 4. The IFSP is being developed or reviewed; and
 5. A change in services or placement is proposed or refused.
- PR-E. The state-approved *Prior Written Notice* form shall be used for all actions noted above and the parent should also be informed of those actions to ensure that they are fully informed of their rights.
- PR-F. Efforts to accomplish the requirement to provide prior written notice in native language shall include, but shall not be limited to:
1. Use of a comprehensive translator search which may range beyond the geographic area served by the agency or provider; and
 2. Inquiries to the Birth to Three Program which shall maintain a resource list of translators.
- PR-G. Consistent with *Section 20(M)* of this policy, consent prior to disclosure or use of information in the record is not required by the employees within the participating agency that is providing the early intervention services on a need to know basis in order to provide early intervention supports and services.
- PR-H. When gaining consent from parents, service coordinators shall inform parents of their rights, their right to refuse to provide such authority and notification of that right appears on the written release form.

- PR-I. Service coordinators are required to use the state-approved *Consent for Release of Information* form that:
1. Lists those from whom the information may be sought and specifies what types of information may be sought from each party;
 2. Limits the confidential information that shall be shared to any personally identifiable data, information, and records collected or maintained for the purposes of participation in the Infants and Toddlers Early Intervention Program;
 3. Allows the parent the opportunity to limit the information that might be released and the parties from whom information may be released;
 4. Includes a statement that the release may be revoked at any time by the parent; and
 5. The release is limited to one year or until the development or review of the IFSP, whichever comes first.
- PR-J. Only one parent with legal rights needs to provide consent. In situations where both parents have legal rights and disagree, you will be asked to work together to try to reach an agreement. If that is not possible, the Birth to Three Program and/or the Child Development Watch Program may not proceed until a Court or other legal entity decides which parent has the authority to make decisions.
- PR-K. Each disclosure of confidential information pursuant to a release shall be recorded in a child's record.
- PR-L. Parents may be asked to give consent to the Department of Public Health for the specific release for any disclosure of sensitive information. which includes, but is not limited to, information pertaining to sexual or physical abuse, mental health treatment, HIV status, or a child's parentage.
- PR-M. In accordance with *Section 20(N)* in this policy, when the parent requests that information be destroyed, the service coordinator serving the family, or in the case of a complaint, the Birth to Three Dispute Coordinator, should remind the parent that the records may be needed by the child or parent for social security, health or other purposes.
- PR-N. Assignment of a Surrogate Parent
1. It is unlikely that very many infants or toddlers will have a parent who cannot be located because of the broad definition of parent in *Section 1: Definitions* of these policies and procedures. Before assigning a surrogate parent, the service coordination shall take reasonable efforts to trying to contact a parent through telephone calls, letters, certified letter with return receipt requested, or visits to the parents' last known address.

2. A surrogate parent may be appointed by voluntary written consent to the appointment by the parent which is revocable at any time by the parent with written notice to the Birth to Three Part C Coordinator.

PR-O. Foster parents are not considered employees for the purposes of selection as a surrogate parent. A foster parent may serve as a surrogate parent so long as the foster parent is planning on being the child's foster parent for the foreseeable future or to adopt the child.

PR-P. Termination of a surrogate:

1. A surrogate may be replaced only when:
 - a. He/she wishes to relinquish surrogate responsibilities; or
 - b. The Birth to Three Program determines that the appointment will be terminated based on the material failure of the surrogate to discharge his/her duties or maintain confidentiality.
2. If the surrogate is terminated, the surrogate has a right to appeal through the established appeal process described under *Section 12: Service Coordination* of these policies and procedures.

PR-Q. Training and technical assistance for surrogate parents includes the following:

1. A surrogate parent for early intervention shall maintain standards of practice as defined by the Educational Surrogate Parents Program at the Delaware Department of Education;
2. All surrogate parents are required to take the initial state-approved training for surrogate parents; and
3. The Birth to Three Program provides or arranges for follow-up training and assistance in order to support surrogate parents to perform their duties when necessary or upon request.

Guidance and Related Documents:

Guide to Parent Rights (Link pending)

Prior Written Notice (Link pending)

Implementing Part C Procedural Safeguards: A Step-by-Step Model
https://ectacenter.org/~pdfs/topics/procsafe/PartCProcedlSafegds-FlowChart_2012.pdf

Section 21: DISPUTE RESOLUTION

Policy Name:	21. Dispute Resolution
Authority:	Federal: 20 U.S.C §1435(a) (13), and §1439; 34 CFR §§303.430-438 State: Delaware Administrative Code Title 16, Chapter 2, Subchapter II, §213(7)(d)
Office:	Department of Health and Social Services, Birth to Three Program
Last Review Date:	2018, technical revisions 2019, revised 2020
OSEP Approval Date:	2018
Effective Date:	October 1, 2020 (<i>estimated effective date</i>)

Purpose:

To define the written policy and procedures for the state complaint procedures, use of mediation, and the process for the timely resolution of complaints and due process hearings.

Policies:

- A. Each service coordinator is responsible for informing parents of the dispute resolution options and assuring parent rights related to each option.
- B. State complaint process:
 1. The Birth to Three Program and other participating agencies and early intervention service providers shall ensure that state procedures for filing a complaint are widely disseminated to parents and other interested individuals, including parent training centers, protection and advocacy agencies and other appropriate entities.
 2. A state complaint filed by an organization or an individual to the Birth to Three Dispute Coordinator shall be resolved no later than 60 days from the date the complaint was received.
 3. The procedures include:
 - a. The complainant may file a complaint orally or in writing to the Birth to Three Dispute Coordinator.
 - b. The state complaint shall include:

- 1) The allegations to be investigated such as a statement of the alleged violation of policies or procedures;
 - 2) The facts on which the complaint is based;
 - 3) The signature and contact information for the complainant and, if alleging violations with respect to a specific child, the name and address of the residence of the infant or toddler;
 - 4) The name of the provider serving the infant or toddler;
 - 5) A description of the nature of the problem regarding the child, including facts relating to the problem; and
 - 6) A proposed resolution of the problem to the extent known.
- c. An alleged violation shall have occurred not more than one year before the date that the complaint is received by the Birth to Three Dispute Coordinator.
 - d. The party filing the complaint shall forward a copy of the complaint to the public agency or provider serving the child at the same time the party files the complaint with the Birth to Three Dispute Coordinator.
4. A state complaint shall be reviewed and resolved by Birth to Three Dispute Coordinator within 60 days after a complaint is filed under this process in order to:
- a. Carry out an independent on-site investigation, if the Birth to Three Dispute Coordinator determines that such an investigation is necessary;
 - b. Provide the complainant with the opportunity to submit additional information, either orally or in writing, about the allegation(s) included in the complaint;
 - c. Provide the public agency or provider with an opportunity to respond to the complaint, including a proposal to resolve the complaint;
 - d. Provide an opportunity for the parent who has filed a complaint and for the agency or provider to voluntarily engage in mediation;
 - e. Review all relevant information and make an independent determination as to whether the agency is violating a requirement under the *Infant and Toddler Early Intervention Policies and Procedures*; and
 - f. Issue a written decision to the complainant within 60 calendar days that addresses each allegation within the complaint and contains the following:
 - 1) Findings of fact and conclusions; and

- 2) Reasons for the final decision made by the Birth to Three Dispute Coordinator.
5. In resolving a complaint in which there is a finding of a failure to provide appropriate early intervention services to an eligible infant or toddler, the following shall be addressed:
 - a. The remediation of the denial of an early intervention service, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the infant or toddler and his/her family;
 - b. The provision of appropriate future early intervention services for all eligible infants and toddlers and families;
 - c. The Birth to Three Dispute Coordinator may determine that the participating agency or provider must engage in technical assistance activities or corrective actions to achieve compliance; and
 - d. An extension of the 60-day timeline may be granted if determined necessary by the Birth to Three Dispute Coordinator.
 6. If a written complaint is received that is also the subject of a due process hearing, or contains multiple issues, of which one or more are part of that hearing, the following shall apply:
 - a. Any part of the complaint that is being addressed in the due process hearing procedures as defined in *Section 21(D)* of this policy may be set aside until the conclusion of the hearing.
 - b. Any issue of the complaint that is not a part of the due process hearing procedures must be resolved within 60 days using the complaint procedures described in *Section 21(B)* of this policy.
 - c. If an issue raised in a complaint has previously been decided in a due process hearing involving the same parties the due process hearing decision is binding on that issue and Birth to Three Dispute Coordinator must inform the complainant of such.
 - d. The complaint alleging that a public agency or private service provider failed to implement a due process decision must be resolved by Birth to Three Dispute Coordinator.

C. Mediation:

1. Any party that has a complaint or dispute about the early intervention system has the opportunity to request mediation and resolve the issue through a non-adversarial process at any time.
2. The procedures include:
 - a. A process that is voluntary on the part of the parties;

- b. Is not used to deny or delay a parent's right to a due process hearing or any other rights under Part C of IDEA;
 - c. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques; and
 - d. Is appointed by Birth to Three Dispute Coordinator within 10 working days.
 3. The Birth to Three Program maintains a list of individuals who are qualified mediators who are selected at random, impartial basis and who:
 - a. May not be an employee of the Birth to Three Program or of Child Development Watch or another other provider who is delivering early intervention or other services to the infant or toddler;
 - b. Must not have a personal or professional interest that conflicts with the person's objectivity; and
 - c. Is not considered an employee of Birth to Three Program solely because he or she is paid by the Birth to Three Program to serve as a mediator.
 4. The Birth to Three Program bears the cost of the mediation process, including the costs of mediation meetings.
 5. If the parent wants to meet with a disinterested party, such as a parent training and information center or community parent resource center in the state, to discuss the benefits of engaging in mediation, the Birth to Three Dispute Coordinator may make arrangements for such a meeting to occur at a time and location convenient to the parent.
 6. Each mediation session shall be scheduled in a timely manner and held in a location that is convenient to the parties involved in the dispute.
 7. If the dispute is resolved through mediation, the parties must execute a legally binding agreement that sets forth that resolution and that:
 - a. All discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - b. Is signed by both the parent and a representative of Birth to Three Program who has the appropriate authority.
 8. A written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a United States district court.
- D. Due Process Hearing:
 1. Parents may initiate the request for a due process hearing on any issue that is in dispute by filing a written complaint with the Birth to Three Dispute Coordinator.

2. Parents shall be offered assistance by the Birth to Three Dispute Coordinator in filing the request for a due process hearing.
3. The Birth to Three Dispute Coordinator shall respond within seven days of receiving the complaint by:
 - a. Notifying the parents of low-cost legal advocacy services;
 - b. Notifying parents of their rights related to the hearing process;
 - c. Notifying parents of the option of mediation, including a description of the mediation process and its voluntary nature; and
 - d. Appointing an impartial hearing officer.
4. An impartial due process hearing officer shall be appointed to implement the due process procedures described in this *Section 21(D)*, who:
 - a. Is not an employee of any agency or other entity involved in the provision of early intervention services or care of the child;
 - b. Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process; and
 - c. Is not an employee of an agency solely because the person is paid by the agency to implement the due process proceeding.
5. The due process hearing office shall:
 - a. Have knowledge about the provision of early intervention services in accordance with the *Infant and Toddler Early Intervention Policies and Procedures*;
 - b. Listen to the presentation of relevant viewpoints about a complaint, examine all information relevant to the issues and seek to reach a timely resolution of the due process complaint; and
 - c. Provide a written or electronic record of the proceedings, including a written decision.
6. During the pendency of any proceeding involving a due process hearing, unless the Birth to Three Program and the parent of the child otherwise agree:
 - a. An infant or toddler must continue to receive the appropriate early intervention services in the setting identified in the Individualized Family Service Plan that is consented to by the parents.
 - b. If the due process hearing involves an application for initial early intervention services, the infant or toddler must receive those services that are not in dispute.
7. During a due process hearing a parent has the right to:

- a. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services, at the parent's expense;
 - b. Present evidence and confront, cross-examine, and compel the attendance of witnesses that are either employed by or under contract with the early intervention agency or provider;
 - c. Prohibit the introduction of any evidence at the proceeding that has not been disclosed to a parent at least five days before the proceeding;
 - d. Obtain a written or electronic verbatim transcription of the proceeding; and
 - e. Receive written findings of fact and decisions at no cost to the parent.
8. Any proceeding for implementing the due process hearing shall be carried out at a time and place that is reasonably convenient to the parent.
 9. No later than 30 days after receipt of a parent's written complaint, the proceeding shall be completed, and a written decision mailed to each of the parties.
- E. Parents who are aggrieved by the final decision of the formal due process hearing system may challenge the decision by bringing a civil action in state court within 30 days of the decision or in federal court where there is no time limit.

Procedures:

PR-A. Service coordinators may use the Dispute Resolution Comparison Chart to assist them in explaining the options that are available for parents.

PR-B. During a complaint investigation, the Dispute Resolution Coordinator shall:

1. Carry out an on-site or virtual investigation;
2. Provide the parties involved the opportunity to respond to the complaint; and
3. Develop a proposal to resolve the complaint.

Guidance and Related Documents:

Guide to Parent Rights (Link pending)

Formal Dispute Resolution Request Form (Link pending)