

Washington State

Early Support for Infants and Toddlers Program

Proposed Revisions to **Policies**

(*Drafted* Proposed Revisions February 2020)

Summary Notes:

- Updated Uniform Guidance Citations
- Use of terminology related to System Design Plan (EIPA/CLA instead of LLA)
- Alignment of Definitions to WAC 110-400
[Policy 2. Definitions Used in ESIT's Policies and Procedures]
- Removing detailed eligibility definitions for vision and hearing diagnoses
[Policy 3. State Definition of Developmental Delay]
- Adding Specialized Instruction as a service subject to Family Cost Participation
[Policy 14. System of Payments and Fees]
- Clarification of Roles/Responsibilities for General Supervisory Authority (Monitoring) [Policy 24. Supervision, Monitoring, and Enforcement]

1 AUTHORITY, PURPOSE, APPLICABILITY, ASSURANCES, AND DESCRIPTIONS

1.A AUTHORITY

The state authority for implementing part C of IDEA is chapter 43.21~~65~~ RCW, Department of ~~Early Learning Children, Youth and Families~~, and chapter 70.195 RCW, Early Intervention Services – Birth to Six, and the Washington Administrative Code (Chapter 110-400 WAC). The federal authority is 20 U.S.C. 1431-1443 and the part C of IDEA regulations in 34 CFR Part §303.

1.B PURPOSE

The primary purpose of these policies and procedures is to ensure the implementation of chapter 43.21~~56~~ RCW, chapter 70.195 RCW, chapter 100-400 WAC, and conformity with the purposes and requirements of part C of IDEA.

1.C APPLICABILITY

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

- (a) ~~DELDCYF~~, in conjunction with the Office of Superintendent of Public Instruction (OSPI), Health Care Authority (HCA), ~~the Departments of Social and Health Services (DSHS)~~, Department of Health (DOH), and Department of Services for the Blind;
- (b) ~~School districts and educational service districts (ESDs)~~;
- (c) LLAs County Lead Agencies (CLAs) and Early Intervention Provider Agencies (EIPAs) receiving funds through ~~DELDCYF~~ to provide EIS, ~~and those LLA's practitioners~~; and
- (d) EIS providers identified in IFSPs to provide EIS to meet the unique needs of children and their families.

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

1.D DESCRIPTIONS

1.D.1 Availability of resources

- (a) In order to assure an equitable distribution of resources, contracts are issued to ~~LLA-CLAs and -EIPAs~~ serving a specific geographic service area, within the state. All geographic areas have access to EIS through CLLA and EIPA contracts;
- (b) In distributing available resources, consideration is given to the relative numbers of infants and toddlers with disabilities and their families residing in each geographic area, as well as the availability and accessibility of necessary and appropriate services within those areas;
- (c) Factors which may assist in determining funding for a geographic area include: count of eligible children with IFSPs at a point in time, local economic impacts, military populations, urban, rural, and remote geographic conditions, culturally and ethnically diverse populations, including tribal communities. In accordance with the Department of Education's General Education Provisions Act (GEPA), section 427(b), the SLA will consider barriers to equitable access which may impede participation, including: gender, race, national origin, color, disability, or age;
- (d) The early intervention contract funding formula may include the factors identified above so that local geographic needs across the state will be addressed. The SLA allocates funds annually to each CLA and EIPA based on the approved allocation formula that addresses geographic needs. ~~LLA-CLA and EIPA~~ contractors are required to assure funds enhance existing services and/or make possible the provision of new services; and
- (e) ~~LLA-CLA and EIPA~~ contracts are negotiated to assure EIS are available in each geographic area, and to assure all required components of the early intervention system are present. Regional/Local County Interagency Coordinating Councils (CICCs), agencies, and providers, within each geographic area, work together to advise, assist, and support the designated ~~LLA-CLA or EIPA~~ for their area as outlined in RCW 43.216.574.

1.D.2 Equitable Access Steps taken by the SLA that ensure equitable access to, and equitable participation in, the Washington part C of IDEA statewide system as required by section 427(b) of GEPA, include:

- (a) State statute, chapter ~~70.195.030 RCW Birth to six~~ 43.216.576 early intervention services – Interagency Agreements. This statute requires state agencies providing or paying for EIS shall enter into formal interagency agreements with each other to define their relationships and financial and service responsibilities. Local agencies or entities and service providers receiving public funding for providing or paying for EIS shall enter into ~~formal~~written interagency agreements with each other that define their relationships and financial responsibilities to provide services within each county;
- (b) Establishment of contracts with Early Intervention Provider Agencies (EIPAs)~~arly Intervention~~ through a competitive bid process to ensure all geographic areas in the

state, except the four (4) counties where ~~County Lead Agencies~~ CLAs have been established, are served.

- ~~(a)~~(c) **Establishment of contracts with LLAs ~~four (4) County Local Lead Agencies (CLAs)~~ that ~~designated organizations under contract with DCYF ESIT program to ensure through subcontracts with early intervention provider agencies (- EIPAs) and early intervention service (their EIS) providers that EIS early intervention are provided county wide in accordance with the CLA's contract with EIST, part C of IDEA, and Washington's Federally Approved State Plan. provide statewide coverage, through county or multi-county contracts, assists the SLA in coordinating and implementing the statewide system of EIS;~~**
- ~~(b)~~(d) **Implementation of a statewide toll-free number** that connects to the CLA or EIPA ~~county or multi-county LLA Lead FRC, who that~~ serves as a system point of entry (SPOE) for referrals to the SLA's ESIT program, including access to a language line service to provide interpreter services when needed;
- ~~(c)~~(e) **LLA Lead Family Resources Coordinators (FRCs)** ~~are available in each region to respond to referrals in a timely manner and to ensure timely initial evaluation and assessment to determine eligibility;~~
- ~~(d)~~(f) **Family resources coordination** services are provided to each eligible infant and toddler and their family on an on-going basis to help facilitate the provision of EIS; and
- ~~(e)~~(g) **Upon approval by the SLA, CLAs LLAs and EIPAs may subcontract** with ~~community~~ EIS providers to ensure comprehensive EIS are available to all eligible infants and toddlers and their families in each geographic area.

2

DEFINITIONS USED IN ESIT'S POLICIES AND PROCEDURES

2.A POLICY

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

- 2.A.1 [Act](#) means the Individuals with Disabilities Education Act (IDEA), as amended.
- 2.A.2 [American Indian/Alaska native; Indian tribe](#)
- (a) Means a person having origins in any of the original people of North and South America (including Central America) and who maintain tribal affiliation or community attachment.
 - (b) Indian tribe means any federally or state recognized Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.).
 - (c) [Nothing](#) in this definition is intended to indicate that the United States Secretary of the Interior is required to provide services or funding to a state Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.
- 2.A.3 [Child](#) means an individual under the age of six and may include an infant or toddler with a disability, as that term is defined in this section.
- 2.A.4 [Consent](#) means that:
- (a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in this section;
 - (b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records (if any) that will be released and to whom they will be released; and

- (c)
 - (1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
 - (2) If a parent revokes consent, that revocation is not retroactive to an action that occurred before the consent was revoked.

2.A.5 **Council** means the State Interagency Coordinating Council (SICC) that meets the requirements of these policies and procedures.

2.A.6 **County Lead Agency (CLA)** means the four (4) designated county organizations, under contract with DCYF's ESIT program, to ensure through subcontracts with EIPAs and EIS Providers, that EIS are provided countywide in accordance with the CLA's contract with ESIT, part C of IDEA, and Washington's Federally Approved State Plan.

2.A.7 **Day** means calendar day, unless otherwise indicated.

~~Department of early learning~~ **Department of Children, Youth and Families (DCYF)- of the State of Washington** means any division, section, office, unit, or other entity of DCYF; or any of the officers or other officials lawfully representing DCYF. DCYF means the Washington State lead agency which is designated by the governor to receive federal funds to administer the state's responsibilities under part C of IDEA.

~~2.A.62.A.8~~

2.A.72.A.9 **Developmental delay**, when used with respect to a child residing in Washington State, has the following meaning:

- (a) A child has a developmental delay if she/he is experiencing a 1.5 standard deviation or 25% of chronological age delay in one or more developmental areas; or
- (b) Has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

2.A.82.A.10 **Early Intervention Provider Agency (EIPA)** means an organization and its subcontractors that under contract with DCYF's ESIT program or the four (4) CLAs to provide EIS in a designated school district catchment area of the state.

~~(a) — Early intervention service program or EIS program means an entity designated by the SLA for federal reporting under these policies and procedures. In Washington State, EIS program means a local lead agency (LLA).~~

2.A.92.A.11 **Early intervention service provider** or **EIS provider** means an entity (whether public, or private, or nonprofit, including school districts) or an individual that is either an employee or subcontractor, who provides EIS in accordance with the CLA or EIPA's contract with ESIT, part C of IDEA, and Washington Federally Approved State Plan regardless of whether or not the entity or individual receives federal funds under part C of IDEA.

An EIS provider is responsible for:

~~Participating in the multidisciplinary individualized family service plan (IFSP) team's ongoing assessment of an infant or toddler with a disability and a family directed assessment of the resources, priorities, and concerns of the infant's or toddler's family, as related to the needs of the infant or toddler, in the development of integrated goals and outcomes for the IFSP;~~

~~Providing EIS, in accordance with the IFSP of the infant or toddler with a disability; and~~

~~Consulting with and training parents and others regarding the provision of the EIS described in the IFSP of the infant or toddler with a disability.~~

2.A.102.A.12 **Early intervention services (EIS)** are:

- (a) Provided under public supervision;
- (b) Selected in collaboration with the parents;
- (c) Provided at no cost, except, subject to these policies and procedures, where federal or state law provides for a system of payments by families, including a schedule of sliding fees;
- (d) Designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team, in any one or more of the following areas, including:
 - (1) Cognitive development
 - (2) Physical development
 - (3) Communication development
 - (4) Social or emotional development
 - (5) Adaptive development
- (e) Provided in a way that meets the standards of Washington State, where the EIS are provided, including the requirements of part C of IDEA;
- (f) Provided by qualified personnel, as defined in this policy, including the types of personnel listed in this policy;
- (g) To the maximum extent appropriate, provided in natural environments, as defined in this section and consistent with these policies and procedures; and
- (h) Provided in conformity with an IFSP adopted in accordance with IDEA and this section.
- (i) Provided in a manner that will enhance the capacity of the family in facilitating their child's development through natural learning opportunities at home or in community settings where children live, learn, or play;
- (j) Delivered over a continuous twelve month period, consistent with the child's individual needs.
- (k) Identified under this section as:
 - (1) **"ASSISTIVE TECHNOLOGY DEVICE"** means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized that is used to increase, maintain, or improve the functional capabilities of infants and toddlers with disabilities.

The term assistive technology device does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.

- (2) **“ASSISTIVE TECHNOLOGY SERVICE”** means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:
 - (i) The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the child in the child’s customary environment;
 - (ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for infants or toddlers with disabilities;
 - (iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - (iv) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - (v) Training or technical assistance for an infant or toddler with disabilities or, if appropriate, that child’s family; and
 - (vi) Training or technical assistance for professionals, including individuals providing education or rehabilitation services, or other individuals who provide services to or are otherwise substantially involved in the major life functions of infants and toddlers with disabilities.
- (3) **“AUDIOLOGY SERVICES”** includes:
 - (i) Identification of infants and toddlers with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;
 - (ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
 - (iii) Referral for medical and other services necessary for the habilitation or rehabilitation of infants and toddlers with disabilities who have an infants and toddlers who are deaf or hard of hearing;
 - (iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
 - (v) Provision of services for prevention of hearing loss; and
 - (vi) Determination of the infant’s or toddler’s individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.
- (4) **“FAMILY TRAINING, COUNSELING, AND HOME VISITS”** means services provided, as appropriate, by social workers, psychologists, educators, and other qualified personnel to assist the family of an infant or toddler with a disability, in understanding the child’s special needs and enhancing the child’s development.
- (5) **“HEALTH SERVICES”** means services necessary to enable an otherwise eligible child

to benefit from the other EIS under part C of IDEA, during the time that the child is eligible to receive EIS.

(i) The term includes:

- (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 infants and toddlers with disabilities that will need to be addressed in the course of providing other EIS.

(ii) The term does not include services that are:

- (A) Surgical in nature (such as 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 purpose); or
- (C) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.
 - 1. Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the EIS that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.
 - 2. Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;
- (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.

(6) **"MEDICAL SERVICES"** means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for EIS.

(7) **"NURSING SERVICES"** include:

- (i) 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;
- (ii) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
- (iii) Administration of medications, treatments, and regimens prescribed by a

licensed physician.

- (8) **“NUTRITION SERVICES”** include:
- (i) Conducting individual assessments in
 - (A) Nutritional history and dietary intake;
 - (B) Anthropometric, biochemical, and clinical variables;
 - (C) Feeding skills and feeding problems; and
 - (D) Food habits and food preferences.
 - (ii) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under part C of IDEA based on the assessment findings in this subsection; and
 - (iii) Making referrals to appropriate community resources to carry out nutrition goals.
- (9) **“OCCUPATIONAL THERAPY”** includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development. These services are designed to improve the child’s functional ability to perform tasks in home, school, and community settings, and include:
- (i) Identification, assessment, and intervention;
 - (ii) 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
 - (iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.
- (10) **“PHYSICAL THERAPY”** includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:
- (i) Screening, evaluation, and assessment of children to identify movement dysfunction;
 - (ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - (iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.
- (11) **“PSYCHOLOGICAL SERVICES”** include:
- (i) Administering psychological and developmental tests and other assessment procedures;
 - (ii) Interpreting assessment results;
 - (iii) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and

- development; and
- (iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.
- (12) **“SERVICE COORDINATION”** – See Family Resources Coordination. Service coordination means services provided by a service coordinator to assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including required procedural safeguards, and is referred to as Family Resources Coordination in Washington State.
- (13) **“SIGN LANGUAGE”** and **“CUED LANGUAGE”** services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.
- (14) **“SOCIAL WORK SERVICES”** include:
- (i) Making home visits to evaluate a child’s living conditions and patterns of parent-child interaction;
 - (ii) Preparing a social or emotional developmental assessment of the infant or toddler, within the context of the family;
 - (iii) Providing individual and family-group counseling with parents and other family members; and appropriate social skill-building activities with the infant or toddler and parents;
 - (iv) Working with those problems in the living situation (home, community, and any center where EIS are provided) of an infant or toddler with a disability and the family of that child that affect the child’s maximum utilization of EIS; and
 - (v) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from EIS.
- (15) **“SPECIAL INSTRUCTION”** includes:
- (i) The design of learning environments and activities that promote the infant or toddler’s acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
 - (ii) Curriculum planning (including the planned interaction of personnel, materials, and time and space) that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;
 - (iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and
 - (iv) Working with the infant or toddler with a disability to enhance the child’s development.
- (16) **“SPEECH-LANGUAGE PATHOLOGY”** services include:

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

accordance with part C of IDEA, provided such personnel meet the requirements in these policies and procedures.

~~2.A.112.A.13~~ **Early Support for Infants and Toddlers (ESIT) program** means the [Part C of IDEA program administered by within DEL DCYF that administers part C of IDEA for Washington State](#).

~~2.A.122.A.14~~ **Elementary school** means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under state law.

~~2.A.132.A.15~~ **Family resources coordination** – In Washington State, service coordination services (case management) are referred to as family resources coordination.

(a) **General:**

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

(b) **Specific service coordination services include:**

- (1) Assisting parents of infants and toddlers with disabilities in obtaining access to needed EIS and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;
- (2) Coordinating the provision of EIS and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes) that the child needs or is being provided;
- (3) Coordinating evaluations and assessments;
- (4) Facilitating and participating in the development, review, and evaluation of IFSPs;

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

2.A.142.A.16 **Family Resources Coordinator (FRC)**

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

2.A.152.A.17 **Free Appropriate Public Education or FAPE**, as used in these policies and procedures means special education and related services that:

- (a) Are provided at public expense, under public supervision and direction, and without

- charge;
- (b) Meet the standards of the state educational agency (SEA), including the requirements of part B of IDEA;
- (c) Include an appropriate preschool, elementary school, or secondary school education in Washington State; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements under regulations for part B of IDEA.

2.A.162.A.18 **Homeless children** means children who meet the definition given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

2.A.172.A.19 **Individualized education program** or **IEP** means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with part B of IDEA.

2.A.182.A.20 **Individualized family service plan (IFSP)** means the written plan required for providing EIS to an eligible infant or toddler and the infant or toddler's family. (See IFSP Policy for more detail.)

2.A.192.A.21 **IFSP team** or **individualized family service plan team** means the child's family; Family Resources Coordinator; service providers, and others, as identified on the plan.

2.A.202.A.22 **Include** and **including** means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

2.A.212.A.23 **Infants and toddlers with disabilities**

- (a) Means an individual under three years of age who needs EIS because the individual:
 - (1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:
 - (i) Cognitive development.
 - (ii) Physical development, including vision and hearing.
 - (iii) Communication development.
 - (iv) Social or emotional development.
 - (v) Adaptive development; or
 - (2) Has a diagnosed physical or mental condition that:
 - (i) Has a high probability of resulting in developmental delay; and
 - (ii) Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders

secondary to exposure to toxic substances, including fetal alcohol syndrome.

- (b) May include, at a state's discretion, an at-risk infant or toddler as defined in this section. (Washington has not chosen to implement this option.)

2.A.222.A.24 **Informed clinical opinion (ICO)** means the required element of all eligibility decisions, for each individual professional and for all teams. ICO may be used as the primary basis for an eligibility decision when there are limitations in test results related to the child's age or condition. ICO shall not be used to negate the results of an evaluation instrument that yields scores meeting eligibility criteria.

2.A.232.A.25 **Interagency agreement** means any written agreement between state agencies needed to implement part C of IDEA.

2.A.242.A.26 **Local educational agency (LEA)**

- (a) Generally means a public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a state, or for a combination of school districts or counties as are recognized in a state as an administrative agency, for its public elementary schools or secondary schools.
- (b) Educational service agencies and other public institutions or agencies. The term includes the following:
 - (1) Educational service agency, defined as a regional public multiservice agency:
 - (i) Authorized by state law to develop, manage, and provide services or programs to LEAs; and
 - (ii) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the state.
 - (2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under state law.
 - (3) Entities that meet the definition of intermediate educational unit or IEU in IDEA, as in effect prior to June 4, 1997. Under that definition an intermediate educational unit or IEU means any public authority other than an LEA that:
 - (i) Is under the general supervision of a state educational agency;
 - (ii) Is established by state law for the purpose of providing FAPE on a regional basis; and
 - (iii) Provides special education and related services to children with disabilities within the state.
- (c) **Bureau of Indian Education (BIE)-funded schools:** The term includes an elementary school or secondary school funded by the BIE, and not subject to the jurisdiction of any

SEA other than the BIE, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under IDEA with the smallest student population.

~~2.A.25 **Local lead agency (LLA)** means the locally designated agency or organization holding the EIS contract, with DEL's ESIT program to ensure that EIS are provided in accordance with the LLA's contract with ESIT, part C of IDEA federal requirements, and the approved Washington State Grant application.~~

~~2.A.26~~2.A.27 **Multidisciplinary** means the involvement of two or more separate disciplines or professions and with respect to:

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

~~2.A.27~~2.A.28 **Native language**

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

~~2.A.28~~2.A.29 **Natural environments** mean settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and shall be consistent with the provisions of these policies and procedures.

~~2.A.29~~2.A.30 **Office of Superintendent of Public Instruction (OSPI)** means the state educational agency responsible for the supervision of public elementary and secondary schools.

2.A.302.A.31 **Parent**

(a) Means:

- (1) A biological or adoptive parent of a child;
- (2) A foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent;
- (3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health, or developmental decisions for the child, but not the state if the child is a ward of the state;
- (4) 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
- (5) A surrogate parent who has been appointed in accordance with these policies and procedures or part C of IDEA.

(b) Except:

- (1) Except as provided in this section, the biological or adoptive parent, when attempting to act as the parent under part C of IDEA and when more than one party is qualified under this section to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational or EIS decisions for the child.
- (2) If a judicial decree or order identifies a specific person or persons under this section to act as the "parent" of a child or to make educational or EIS decisions on behalf of a child, then the person or persons shall be determined to be the "parent" for purposes of part C of IDEA, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

2.A.312.A.32 **Parent Training and Information Center** means a center assisted under IDEA.

2.A.322.A.33 **Part B of IDEA** means special education of children with disabilities under the Individuals with Disabilities Education Act at 20 U.S.C. §§1431-1443, as amended.

2.A.332.A.34 **Part C of IDEA** means the infants and toddlers with disabilities program under the Individuals with Disabilities Education Act at 20 U.S.C. §§1431-1443, as amended.

2.A.342.A.35 **Personally identifiable information** has the meaning given to the term in 34 CFR §99.3 as amended, except that the term "student" in the definition of personally identifiable information in 34 CFR §99.3 means "child" as used in part C of IDEA and any reference to "school" means "EIS provider" as used in part C of IDEA.

2.A.352.A.36 **Public agency** means the SLA and any other agency or political subdivision of the state.

~~2.A.362.A.37~~ **Qualified personnel** means personnel who have met Washington State’s approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations, or assessments, or providing EIS.

~~2.A.372.A.38~~ **Record** means any information recorded in any way, including, but not limited to, handwriting, print, computer, media, video or audio tape, film, microfilm, and microfiche.

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

~~2.A.382.A.40~~ **Scientifically-based research** has the meaning given the term in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In applying the ESEA to the regulations under part C of IDEA, any reference to “education activities and programs” refers to “early intervention services.”

~~2.A.392.A.41~~ **Screening** means optional administration of an appropriate instrument to determine the need for further evaluation.

~~2.A.402.A.42~~ **Secretary** means the United States secretary of the department of education.

~~2.A.412.A.43~~ **State educational agency (SEA)**

- (a) Means the state board of education or other agency or officer primarily responsible for the state supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the governor or by state law.
- (b) The term includes the agency that receives funds under part B of IDEA to administer the state’s responsibilities under part B of IDEA.

~~2.A.422.A.44~~ **State**, except as provided in these policies and procedure regarding state allotments under part C of IDEA, -means each of the 50 states, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

~~2.A.432.A.45~~ **State lead agency (SLA)** means the ~~DEL’s DCYF’s~~ ESIT program administering the federal part C of IDEA grant to coordinate and provide statewide EIS. The SLA is the single line of responsibility established by the governor that is responsible for the administration of part C of IDEA in Washington State. (See Policy 1 Authorities, Purpose, and Assurances for detail.)

~~2.A.442.A.46~~ **System of payments and fees** means the ESIT policy on families’ financial contribution to their child’s program under part C of IDEA.

2.A.452.A.47 **Ward of the state** means:

- (a) A child who, as determined by Washington State, is:
 - (1) A foster child; A ward of Washington State; or
 - (2) In the custody of a public child welfare agency.
- (b) Ward of the state does not include a foster child who has a foster parent who meets the definition of a parent in this section.

3 STATE DEFINITION OF DEVELOPMENTAL DELAY POLICY

3.A POLICY

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

- (a) **Developmental delay:**
 - (1) A child shall be eligible if he or she demonstrates a delay of 1.5 standard deviation or 25% of chronological age delay in one or more of the following developmental areas, as measured by appropriate diagnostic instruments and procedures, and administered by qualified personnel. In the case of hearing and vision, the criteria listed within hearing impairment and vision impairment applies.
 - (i) Cognitive
 - (ii) Physical (fine or gross motor)
 - (iii) Communication (receptive or expressive language)
 - (iv) Social or Emotional
 - (v) Adaptive
 - (2) **INFORMED CLINICAL OPINION**
 - (i) The SLA shall ensure that informed clinical opinion given by qualified personnel may be used as an independent basis to establish a child's eligibility even when instruments do not establish eligibility; and
 - (ii) In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.
- (b) **Diagnosed physical or mental condition:** A child shall be eligible if he or she has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. Such conditions include, but are not limited to:
 - (1) **CHROMOSOMAL ABNORMALITIES;**
 - (2) **GENETIC OR CONGENITAL DISORDERS;**
 - (3) **SENSORY IMPAIRMENTS;**
 - (4) **INBORN ERRORS OF METABOLISM;**
 - (5) **DISORDERS REFLECTING DISTURBANCE OF THE DEVELOPMENT OF THE NERVOUS SYSTEM;**
 - (6) **CONGENITAL INFECTIONS;**
 - (7) **SEVERE ATTACHMENT DISORDERS;**

(8) **TOXIC SUBSTANCES** – disorders secondary to exposure to toxic substances, including fetal alcohol syndrome;

~~(9) **DEAFNESS/HEARING LOSS** – a hearing loss that adversely affects a child’s development is:~~

~~(i) Unilateral sensorineural hearing loss and/or permanent conductive hearing loss of 45 dB or greater.~~

~~(ii) Bilateral sensorineural hearing loss and or permanent conductive hearing loss, which includes:~~

~~(A) Hearing loss of 20 dB or greater, better ear average of the frequencies 500, 1,000, and 2,000 Hz.;~~

~~(B) High frequency loss greater than 25 dB at two or more consecutive frequencies or average of three frequencies between 2,000 and 6,000 Hz, in the better ear;~~

~~(C) Low frequency hearing loss greater than 30 dB at 250 and 500 Hz, in the better ear; or~~

~~(D) Thresholds greater than 25 dB on Auditory Brainstem Response threshold testing in the better ear; or~~

~~(iii) A six month history of fluctuating conductive hearing loss or chronic middle ear effusion/infection of three months, unresolved past initial evaluation.~~

~~(10) **VISION IMPAIRMENT** – infants and toddlers with visual impairment/blindness are:~~

~~(i) Those children who have a visual impairment that adversely affects the child’s development, even with correction. Eligibility shall be dependent on documentation of a visual impairment, including one or more of the following conditions:~~

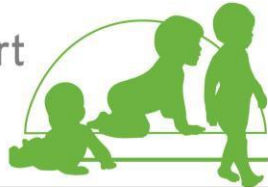
~~(A) Legal blindness or visual handicap, as they are customarily defined, either in terms of qualifying reduction in visual acuity and/or a qualified reduction in visual fields; or~~

~~(B) A visual impairment that is progressive in nature and can be expected to lead to blindness within a reasonable period of time.~~

~~(ii) If a visual acuity or field cannot be determined:~~

~~(A) The qualified personnel shall identify a diagnosis or medical history that indicates a high probability of visual loss that may adversely affect the child’s development; and~~

~~(B) A functional vision evaluation by a qualified professional is necessary to determine eligibility.~~



8 COMPREHENSIVE CHILD FIND SYSTEM AND REFERRAL POLICY

8.A POLICY

8.A.1 The SLA ensures a comprehensive child find system that:

- (a) Is consistent with part B of IDEA and the rules for the provision of special education (WAC 392-172A-02040);
- (b) Includes a system for making referrals to [LLAs-CLAs, and EIPAs and EIS providers](#), under part C of IDEA that:
 - (1) Includes timelines; and
 - (2) Provides for participation by the primary referral sources described in this section.
- (c) Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under part C of IDEA that will reduce the need for future services; and
- (d) Meets the requirements of this section and procedures related to screenings, evaluations, and assessments.

8.A.2 The SLA, as part of the child find system, ensures that:

- (a) All infants and toddlers with disabilities in Washington who are potentially eligible for EIS under part C of IDEA are identified, located, and evaluated, including:
 - (1) American Indian/Alaska native infants and toddlers with disabilities residing on a reservation geographically located in Washington, including coordination, as necessary, with tribes, tribal organizations, and tribal networks to identify infants and toddlers with disabilities in Washington, based, in part, on the information provided by them to the SLA under part C of IDEA;
 - (2) Infants and toddlers with disabilities who are homeless, in foster care, or wards of Washington State; and
 - (3) Infants and toddlers with disabilities under the age of three required by the Child Abuse Prevention and Treatment Act (CAPTA) reauthorized with the enactment of the Keeping Children and Families Safe Act of 2003 (P.L. 108-36) and implemented through Washington's DSHS Children's Administration referral procedures to part C of IDEA early intervention, who are:
 - (i) The subject of a substantiated case of child abuse or neglect; or

- (ii) Identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure; and
- (b) An effective method is developed and implemented to identify children who are in need of EIS.

8.A.3 The SLA, with the assistance of the SICC, ensures that the child find system under part C of IDEA is coordinated:

- (a) With all other major efforts to locate and identify children by other state agencies responsible for administering the various education, health, and social service programs relevant to part C of IDEA, including Indian tribes that receive payments under part C of IDEA, and other Indian tribes, as appropriate;
- (b) Is coordinated with the efforts of the:
 - (1) Program authorized under part B of IDEA;
 - (2) Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act, as amended, (MCHB or Title V) (42 U.S.C. 701(a));
 - (3) Early Periodic Screening, Diagnosis, and Treatment (EPSDT), under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));
 - (4) Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
 - (5) Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
 - (6) Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
 - (7) Child Protection Services, Family Voluntary Services, and Child Family Welfare Workers, including programs administered by, and services provided through, the foster care agency and the state agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) reauthorized with the enactment of the Keeping Children and Families Safe Act of 2003 (P.L. 108-36);
 - (8) Child care programs and other early learning programs in Washington;
 - (9) The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
 - (10) Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
 - (11) Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) and
- (c) Programs/agencies that administer the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11431 et seq.) for children that are homeless;
- (d) The SLA ensures the child find system includes procedures for use by primary referral sources for referring a child under the age of three to the ESIT program; and

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

13 PROCEDURAL SAFEGUARDS POLICY

13.A POLICY

- 13.A.1 The SLA, under part C of IDEA, has established procedural safeguards that meet the requirements of part C of IDEA and its implementing regulations, including the provisions on confidentiality, parental consent, prior written notice, surrogate parents, and dispute resolution procedures.
- 13.A.2 The SLA ensures effective implementation of procedural safeguards, by each participating agency [as defined in paragraph 13.B.1\(a\)\(2\)](#), including the SLA, each ~~LLA~~[CLA](#), [EIPA](#), [FRCs](#), and ~~other~~ EIS providers in Washington that are involved in the provision of EIS, under ~~part C of IDEA through~~ contracts with [ESIT or subcontracts with CLAs or EIPAs](#).
- 13.A.3 State and local interagency agreements have been developed to ensure effective implementation of part C of IDEA procedural safeguards by each public agency in the state that is involved in the provision of EIS.
- 13.A.4 The SLA ensures that the parents of a child referred under part C of IDEA are afforded the right to confidentiality of personally identifiable information, including the right to written notice of and written consent to, the exchange of that information among agencies, consistent with federal and state laws.
- 13.A.5 The SLA ensures the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to part C of IDEA by participating agencies [as defined in paragraph 13.B.1\(a\)\(2\)](#), including the SLA, [CLAs](#), [EIPAs](#), [FRCs](#), and ~~other~~ EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR [§Part 99](#).
- 13.A.6 The SLA has procedures in effect to ensure that the parents of infants or toddlers who are referred to or receive services under part C of IDEA, are afforded the opportunity to inspect and review all part C of IDEA early intervention records about the child and the child's family that are collected, maintained, or used under part C of IDEA, including records related to screening, evaluations, and assessments, eligibility determinations, development, and

implementation of IFSPs, provision of EIS, individual complaints involving the child, or any part of the child's early intervention record, under part C of IDEA.

- 13.A.7 The confidentiality procedures described in these policies and procedures applies from the point in time when the child is referred for EIS under part C of IDEA until the participating agency is no longer required to maintain or no longer maintains that information under applicable federal and state laws.
- 13.A.8 The SLA ensures the establishment and implementation of written policies and procedures for the timely administrative resolution of complaints through mediation, state complaint procedures, and due process hearing procedures.

14 SYSTEM OF PAYMENTS AND FEES POLICY

14.A INTRODUCTION

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

14.B POLICY

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

- (a) In accordance with 34 CFR §303.521(b) (2011), the following part C of IDEA functions and services shall be provided at public expense by the Early Support for Infants and Toddlers program (ESIT) and its service providers and for which no fees may be charged to families:
- (1) Implementing the child find requirements in §§303.301 through 303.303;
 - (2) Evaluation and assessment, in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b);
 - (3) Service coordination services (Family Resources Coordination), as defined in §§303.13(b)(11) and 303.33;
 - (4) Administrative and coordinative activities related to:
 - (i) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§303.342 through 303.345; and
 - (ii) Implementation of Subpart E, Procedural Safeguards, and the other components of the statewide system of EIS in subpart D of 34 CFR [Part §303](#); and
- (b) **Assurance:** In accordance with 34 CFR §303.521(a)(4)(ii), if a family meets the definition of “inability to pay”, all part C of IDEA services identified on their child’s IFSP will be provided at no cost to the family. In addition, the family’s inability to pay will not result in a delay or denial of part C of IDEA services.

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

- (a) In accordance with 34 CFR §303.521(b), the following functions and services are subject to Family Cost Participation and for which co-payments, co-insurance, deductibles, or fees may be charged to families:
- (1) Assistive Technology Device
 - (2) Assistive Technology Service
 - (3) Audiology Services
 - (4) Counseling
 - (5) Health Services
 - (6) Nursing Services
 - (7) Nutrition Services
 - (8) Occupational Therapy
 - (9) Physical Therapy
 - (10) Psychological Services
 - (11) Social Work Services
 - ~~(12)~~ [Speech-Language Pathology Services](#)
 - ~~(12)~~~~(13)~~ [Specialized Instruction](#)

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

14.B.3 Funding sources that are incorporated into Washington's System of Payments and Fees for Early Intervention Services subject to Family Cost Participation

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

- (a) Public Health Care Coverage/Insurance (Apple Health for Kids/Medicaid)
- (b) Private Health Care Coverage/Insurance
- (c) Fees.

14.B.4 Family income and expense information

- (a) Prior to billing public or private insurance, families will be provided the ESIT System of Payment and Fees Policy. Families will be asked to complete, as appropriate, the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form;
- (b) The family's FRC will assist families in reviewing and completing the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form, as appropriate;
- (c) The Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form will be submitted to the FRC assigned to the family;
- (d) If the family income and expense information results in an adjusted annual income below 200% of the Federal Poverty Level (FPL) based on family size, the family will not be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee. Other agency funds or part C of IDEA funds as payer of last resort may be used to cover these costs; and
- (e) If the family income and expense information results in an adjusted annual income above 200% of the FPL based on family size, if applicable, the family will be required to pay insurance co-pays, co-insurance, insurance deductibles, or a monthly fee.

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

- (a) In accordance with 34 CFR §303.520(a)(2)(i), families enrolled in an ESIT early intervention program will not be required to sign up for or enroll in Apple Health for Kids/Medicaid, as a condition for their child to receive part C of IDEA EIS;
- (b) In accordance with 34 CFR §303.520(a)(3), families will be provided the ESIT System of Payments and Fees Policy prior to using a child or parent's public benefits or insurance to pay for part C of IDEA services;
- (c) In accordance with 34 CFR §303.520(a)(2)(ii), early intervention providers will obtain family consent if access to Apple Health for Kids/Medicaid would result in any of the following:
 - (1) A decrease in the available lifetime coverage or any other insured benefit for the child or parent under that program;
 - (2) Result in the child's parents paying for services that would otherwise have been paid for by the public benefits or insurance program;
 - (3) Result in any increase in premiums or discontinuation of public benefits or insurance for the child or parents; or
 - (4) Risk the loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures; and
- (d) In accordance with 34 CFR §303.520(b)(1), when families have both Apple Health for Kids/Medicaid and private insurance, early intervention providers shall obtain parental consent for:
 - (1) The use of the family's private health care coverage/insurance to pay for the initial provision of EIS contained on the IFSP; and
 - (2) The use of private health care coverage/insurance to pay for any increase in frequency, length, duration or intensity of services in the child's IFSP; and
- (e) **Assurance:** In accordance with 34 CFR §303.521(a)(4)(iv), families with public insurance or benefits will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance;
- (f) Early intervention providers will:
 - (1) In accordance with 34 CFR §§303.414 and 303.520(a)(3)(i), give written notification to families enrolled in Apple Health for Kids/Medicaid informing them that personally identifiable information will be disclosed to Apple Health for Kids/Medicaid for the purpose of billing EIS provided to their child;
 - (2) In accordance with 34 CFR §303.520(a)(3)(iii), inform families that they have the right to withdraw their consent to the disclosure of personally identifiable information for billing purposes at any time; and
 - (3) In accordance with 34 CFR §303.520(a)(3)(iv), provide a written statement of the general categories of costs that the family may incur, as a result of the use of Apple Health for Kids/Medicaid; and

- (g) Early intervention providers will not pay the cost of premiums for Apple Health for Kids/Medicaid;
- (h) In accordance with 34 CFR §303.520(a)(2)(iii), if the parent does not provide consent to enroll in or access Apple Health for Kids/Medicaid, early intervention providers shall still make available those part C of IDEA EIS on the IFSP to which the parent has provided consent. The lack of consent for use of Apple Health for Kids/Medicaid may not be used to delay or deny any services under this part to the child or family; and
- (i) When eligibility for Apple Health for Kids/Medicaid cannot be confirmed or the family has declined to provide income and expense information, the family will be required to follow Washington's System Payment and Fees Policy.

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

- (a) In accordance with 34 CFR §303.520(b)(1)(iii), families will be provided the ESIT System of Payment and Fees Policy, prior to using a child or parent's private health care coverage/ insurance to pay for part C of IDEA services;
- (b) In accordance with 34 CFR §303.520(b)(1)(i), early intervention providers shall obtain parental consent for:
 - (1) The use of the family's private health care coverage/insurance to pay for the initial provision of EIS contained on the IFSP; and
 - (2) The use of private health care coverage/insurance to pay for any increase in frequency, length, duration, or intensity of services in the child's IFSP; and
- (c) **Assurance:** In accordance with 34 CFR §303.521(a)(4)(iv), families with private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.
- (d) In accordance with 34 CFR §303.520(b)(1)(ii), early intervention providers will provide a written statement of the general categories of costs that the family may incur as a result of the use of private health care coverage/insurance, such as:
 - (1) Co-payments, co-insurance, premiums, or deductibles or other long-term costs, such as the loss of benefits because of annual or lifetime health care coverage/insurance caps under the insurance policy for the child, the parent, or the child's family members;
 - (2) The potential that the use of the family's private health care coverage/insurance may negatively affect the availability of health insurance to the child with a disability, the parent, or the child's family members covered under the policy; and health care coverage/insurance may be discontinued due to the use of the insurance policy to pay for part C of IDEA EIS; or
 - (3) The potential that health care coverage/insurance premiums may be affected by the use of private insurance to pay for EIS; and
- (e) Early intervention providers will not pay the cost of premiums for health care coverage/insurance;

- (f) In accordance with 34 CFR §303.520(a)(2)(iii), if the parent does not provide consent to access private health care coverage/insurance, early intervention providers shall still make available those part C of IDEA EIS on the IFSP to which the parent has provided consent. The lack of consent may not be used to delay or deny any services to the child or family. When the parent or family does not give consent to access their private health care coverage/insurance, the family will be required to follow Washington's System of Payment and Fees Policy;
- (g) For all families who have been billed co-payments, co-insurance, or deductibles, other agency funds, including part C of IDEA payer of last resort funds, may be used to cover these costs; and
- (h) Families who are 90 days delinquent in paying their co-payments, co-insurance, or deductibles will have the services subject to Family Cost Participation suspended until a payment plan is developed. This will occur after written notification has been given to the family, Family Resources Coordinator, and service provider(s) have been notified.

14.B.7 Definition of parent ability to pay

- ESIT has defined ability to pay as the total adjusted annual income of the family that falls at or above 200% of the Federal Poverty Level (FPL), adjusted for allowable non-reimbursed expenses that exceed 10%.
- (a) Income and expense information is needed to determine a family's ability to pay monthly fees;
 - (b) Allowable non-reimbursed expenses include:
 - (1) Medical and dental expenses including premiums, deductibles, co-pays, and co-insurance
 - (2) Mental health treatment not covered by insurance
 - (3) Home health care provided by licensed home health agency
 - (4) Child support/alimony payments
 - (5) Child care costs incurred while parent(s) work or go to school; and
 - (c) Prior to billing public health care coverage/insurance or private health care coverage/insurance, families will be asked to review and complete the Prior Written Notice, Consent to Access Public and/or Private Insurance, and Income and Expense Verification form that will include the following:
 - (1) Income and expense information;
 - (2) Consent to release personally identifiable information; and
 - (3) Consent to access public and/or private insurance coverage; and
 - (d) The family's ability to pay status shall be reviewed and updated at least annually or sooner if the family requests.

14.B.8 Definition of parent inability to pay

ESIT has defined inability to pay as the total adjusted annual income of the family that falls below 200% of the Federal Poverty Level (FPL), adjusted for allowable non-reimbursed expenses that exceed 10%.

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

14.B.9 Fees

- (a) In accordance with 34 CFR §303.521, for families who have been determined to have the "ability to pay," ESIT has established a monthly fee for EIS subject to Family Cost Participation when any of the following occur:
 - (1) The family declines use of their private health care coverage/ insurance;
 - (2) The family declines use of their Apple Health for Kids/Medicaid public health care coverage/insurance and has an adjusted annual income at or above 200% FPL; or
 - (3) The family does not have either Apple Health for Kids/Medicaid or private health care coverage/ insurance; and
- (b) Families who decline to provide income and expense information will be charged a monthly fee at the highest level based upon family size, factoring in any amount received from other public sources of funding received in payment for those services;
- (c) The Monthly Fee Schedule has been established based on the Federal Poverty Level (FPL) Guidelines and will be updated on an annual basis;
- (d) If families give consent to access their public and/or private insurance for the provision of EIS that are subject to Family Cost Participation, they will not pay a monthly fee;
- (e) For families who are enrolled in Apple Health for Kids/Medicaid, meet the definition of "inability to pay", and decline access to this funding source as payment for the part C of

IDEA EIS, all part C of IDEA services identified on their child's IFSP will be provided at no cost. In addition, the family's inability to pay will not result in a delay or denial of part C of IDEA services;

- (f) For families who are not enrolled in Apple Health for Kids/Medicaid and have declined to provide income and expense information, will be charged a monthly fee at the highest level based upon family size, factoring in any amount received from other public sources of funding received in payment for those services;
- (g) Families who decline access to their private health care coverage/insurance and who have provided income and expense information will be charged a monthly fee based on family size and adjusted annual income;
- (h) Families may ask to have a re-determination of their monthly fee any time there is a change in family size, income and/or expenses. Any adjustment made to the monthly fee will occur after re-determination has been made; and
- (i) Families, who are 90 days delinquent in paying their monthly fee, will have the services for their child subject to Family Cost Participation suspended until an acceptable payment plan is developed. This will occur after written notification has been given to the family, FRC, and service provider(s).

14.B.10 Procedural safeguards requirements

- (a) In accordance with 34 CFR §303.521(e), families will be provided a copy of the System of Payment and Fees Policy that details their procedural safeguards related to:
 - (1) The imposition of fees;
 - (2) The state's determination of the parent's ability or inability to pay; and
 - (3) The billing of public or private insurance.
- (b) Parents have the right to:
 - (1) Participate in mediation in accordance with 34 CFR §303.431;
 - (2) Request a due process hearing under 34 CFR §303.436 or §303.441, whichever is applicable;
 - (3) File a state complaint under 34 CFR §303.434; and/or
 - (4) Any other procedure established by the state to speed resolution of financial claims; and
- (c) In accordance with 34 CFR §303.521(e)(2)(i) ESIT providers will give a written copy of its System of Payments and Fees Policy to parents when requesting:
 - (1) Consent for the provision of EIS is obtained at the IFSP meeting; and
 - (2) Consent for the use of private insurance to pay for part C of IDEA services.

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

14.C.2 [Family Cost Participation Guidelines](#)

14.C.3 [Prior Written Notice, Consent to Access Public and/or Private Insurance, Income and Expense Verification Form](#)

14.C.4 [Monthly Fee Schedule](#)

24 SUPERVISION, MONITORING, AND ENFORCEMENT POLICY

24.A POLICY

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

- (a) Monitors the implementation of part C of IDEA;
- (b) Makes ~~LLA-CLA and EIPA~~ determinations annually about their performance in the implementation of part C of IDEA;
- (c) Enforces part C of IDEA consistent with 34 CFR §303.704, using appropriate enforcement mechanisms, which includes, if applicable, the enforcement mechanisms identified in 34 CFR §303.704(a)(1) (technical assistance) and §303.704(a)(2) (imposing special conditions), or 34 CFR §303.704(b)(2)(iv) (withholding of funds, in whole or in part by the SLA); and
- (d) Reports annually on the performance of the state and of each ~~LLA-CLA and EIPA~~ under part C of IDEA, as provided in 34 CFR §303.702.

24.A.2 ~~DEL-DCYF~~ may contract with ~~LLAs-CLAs~~ to ~~provide general supervision, assist with data collection for the purposes of state monitoring, and enforcement~~ of all ~~EIPAs and local EIS providers in their service area, by all local EIS providers, including school districts.~~

24.A.3 Primary monitoring focus

- (a) Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and,
- (b) Ensuring ~~that LLAs that CLAs and EIPAs EIS~~ meet the program requirements under part C of IDEA, with emphasis on those requirements that are most closely related to improving results for infants and toddlers with disabilities.

24.A.4 As a part of its responsibilities under 24.A.1 (a) or 24.A.2 (a) above, SLA uses the indicators established by the secretary for the State Performance Plan (SPP) and state identified indicators to measure performance.

~~24.A.5 In addition to SPP indicators 1 through 8, the SLA monitors each LLA located in Washington, on each of the following priority areas:~~

- ~~(a) Review IFSPs; and~~
- ~~(b) Annual IFSPs.~~

~~24.A.6~~24.A.5 In exercising its monitoring responsibilities under 24.A.1(d) above, the SLA ensures when it identifies CLA and EIPA ~~LLA~~ noncompliance with the requirements of part C of IDEA, the following occurs:

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

~~24.A.7~~24.A.6 **SPP, annual performance report (APR), and data collection**

- (a) An SPP is in place that:
 - (1) Meets the requirements described in section 616 of part C of IDEA;
 - (2) Is approved by the secretary;
 - (3) Includes an evaluation of Washington's efforts to implement the requirements and purposes of part C of IDEA; and
 - (4) Includes a description of how improvement activities will assist in accomplishing the rigorous and ~~measurable~~measurable targets set for each indicator, established by the secretary, under the priority areas described in 34 CFR §303.700(d); and
- (b) The SLA reviews its SPP annually and submits a revised document when changes occur; and
- (c) Data collection: The SLA collects:
 - (1) Valid and reliable data as needed to report annually to the secretary under 34 CFR §303.702(b)(2), on SPP/APR indicators;
 - (2) Census data on specific indicators through its DMS;
 - (3) Performance and compliance data ~~throughby using a variety of methods and activities (e.g. onsite monitoring, desk audits, self -assessment, family surveys).~~
 - (i) ~~The ECO Family Survey;~~
 - (ii) ~~LLA self-assessment process; and~~
 - (iii) ~~ESIT onsite monitoring.~~

~~24.A.8~~24.A.7 **Use of state targets and reporting**

- (a) SLA uses the targets established in Washington's SPP under 34 CFR §303.701 and the priority areas described in 34 CFR §303.700(d) to analyze the performance of each ~~LLA~~CLA and EIPA in implementing part C of IDEA;
- (b) SLA reports annually to the public on the performance of each ~~LLA~~CLA and EIPA located in the state on the targets in the Washington APR, as soon as practicable, but no later than 120 days following submission of the Washington's APR to the secretary;
- (c) SLA makes the SPP under 34 CFR §303.701(a), its APR, and the state's annual reports on the performance of each CLA ~~LLA and EIPA~~ available through public means, by posting on the SLA's website, and distributing to the SICC, CLAs and EIPAs ~~and LLA~~;

- (d) SLA reports annually to the secretary on the performance of the state under the SPP; and
- (e) The SLA does not report to the public or the secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data is not sufficient to yield statistically reliable information.

~~24.A.9~~24.A.8 **Informing the public of an enforcement action against the SLA** Whenever the SLA receives notice that the secretary is proposing to take or is taking an enforcement action pursuant to 34 CFR §303.704, the SLA shall notify the public and take any action necessary to bring a pending action related to USC §1450.616(e) and 34 CFR §303.704 of the regulations to the attention of the public. This requirement will be met by posting the notice on the SLA's website and distributing the notice to the SICC, [LLAs-CLAs](#), [EIPAS](#) and the media.

~~24.A.10~~24.A.9 **Rule of construction** Nothing in this policy may be construed to restrict the secretary from utilizing any authority under **GEPA, 20 USC §1221 et seq., and its regulations in 34 CFR §§ 76, 77, 80, and 81, including the imposition of special conditions under 34 CFR §80.12, to monitor and enforce the requirements of IDEA.**

~~24.A.11~~24.A.10 **State enforcement** Nothing in this policy may be construed to restrict Washington from utilizing any other authority available to it to monitor and enforce the requirements of part C of IDEA.

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

26.A POLICY

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

26.A.2 Each agreement

(a) Defines financial responsibility of each state agency for payment of EIS consistent with state law and part C of IDEA; and

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

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

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

26.A.5 The SLA has adopted methods that

(a) Include a mechanism to ensure that no services that a child is entitled to receive under part C of IDEA are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and

(b) Are consistent with the written funding policies adopted by Washington State under part C of IDEA and include provisions the state has adopted regarding the use of public and private insurance to pay for part C of IDEA services.

The SLA's method includes any additional components of the SLA's general supervision necessary to ensure effective cooperation and coordination among all public agencies involved in the provision of EIS, including monitoring of CLAs, EIPA and EIS