

Washington State Early Support for Infants and Toddlers Proposed Revisions to **Procedures**

(*Drafted* Proposed Revisions February 2020)

Summary Notes:

- Updated Uniform Guidance Citations
- Use of terminology related to System Design Plan (EIPA/CLA instead of LLA)
- Removed detailed description of FRC tasks related to Child Find and Referral [Procedures 8. Comprehensive Child Find and Referral]
- Clarification of Roles/Responsibilities for General Supervisory Authority (Monitoring) [Procedure 24. Supervision, Monitoring, and Enforcement]

4 PUBLIC AWARENESS PROGRAM PROCEDURES

4. B PROCEDURES

- 4.A.1 The SLA ensures through contracts with [LLAs-CLAs](#) and [EIPAs](#) that program information and materials for parents and others are disseminated to all primary referral sources. [AnCLAs and EIPAs LLA-designated-public awareness contact](#) may order free copy print materials from the SLA for local distribution. [LLAs-CLAs and EIPAs](#) are required to document where materials are locally distributed.
- 4.A.2 Any individual may download program materials at no cost from the ESIT website.
- 4.A.3 Program information and materials are provided in the native language of various population groups represented in the state when feasible to do so.

6 COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT PROCEDURES

6.B PROCEDURES

6.A.1 The CSPD shall include

- (a) Training personnel in implementing innovative strategies and activities for the recruitment and retention of early intervention service providers;
- (b) Promoting the preparation of early intervention service providers who are fully and appropriately qualified to provide EIS under part C of IDEA; and
- (c) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from ~~an EIS program~~ ESIT under part C of IDEA to a preschool program under section 619 of part B of IDEA, Head Start, Early Head Start, an elementary school program under part B of IDEA or another appropriate program.

6.A.2 The CSPD may include

- (a) Training personnel to work in rural and inner-city areas;
- (b) Training personnel in the emotional and social development of young children;
- (c) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and
- (d) Training personnel who provide services under part C of IDEA, using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable.

6.A.3 The CSPD shall provide

- (a) Pre-service and in-service training to be conducted on an interdisciplinary basis to the extent appropriate;
- (b) The training of a variety of personnel to meet the requirements of part C of IDEA including:
 - (1) EIS providers;
 - (2) Primary referral sources;
 - (3) Paraprofessionals; and
 - (4) FRCs.
- (c) Opportunities for parents to participate in training activities both as presenters and participants.

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QUALIFIED PERSONNEL STANDARDS PROCEDURES

7.B PROCEDURES

- 7.A.1 The SLA ~~is responsible for ensuring that CLAs and EIPAs and participating agencies shall follow~~ the most current hiring and personnel standards for the specific disciplines included in the definitions section of these policies and procedures are followed.
- 7.A.2 A chart summarizing personnel requirements from Washington statutes and rules of Washington agencies, applicable to serving children under part C of IDEA and their families, is maintained and available to LLAs, CLAs, EIPAs, County-Regional/Local Interagency Coordinating Councils, and the public.
- 7.A.3 Employers and applicants should consult with the Washington State department of health (DOH) and OSPI for the most current licensure and/or certification requirements.

8.B PROCEDURES

8.A.1 The ~~LLA-CLA~~, or EIPA shall coordinate the early identification (child find) of eligible infants and toddlers and their families (including targeted outreach to traditionally underrepresented populations) within their geographic service area.

8.A.18.A.2 The SLA, with the advice and assistance of the SICC, shall take steps to ensure that:

- (a) There will not be unnecessary duplication of effort by the agencies involved in the state's child find system under part C of IDEA; and
- (b) The state will make use of the resources available, through each public agency in the state, to implement the child find system in an effective manner.

8.A.28.A.3 The procedures in this section require the referral of a child under the age of three, as 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:

- (a) The subject of a substantiated case of child abuse or neglect; or
- (b) Identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

8.A.38.A.4 Primary referral sources include:

- (a) Hospitals, including prenatal and postnatal care facilities
- (b) Physicians
- (c) Parents, including parents of infants and toddlers
- (d) Child care programs and early learning programs
- (e) Local education agencies and schools
- (f) Public health facilities
- (g) Other public health or social service agencies
- (h) Other clinics and health care providers
- (i) Public agencies and staff in the child welfare system, including child protective service and foster care

- (j) Homeless family shelters
- (k) Domestic violence shelters and agencies

8.A.48.A.5 The CLA or EIPA shall ensure that all referrals of children who reside in the designated geographic service areas are responded to.

- (a) Within three (3) business days of receipt of the referral, a designated CLA or EIPA staff member must make contact with the family.

~~Once a referral is received by fax, phone, email or mail, a FRC shall be appointed as soon as possible. Upon receiving the referral:~~

- ~~(a) If the referral came from a primary referral source, the LLA or service provider shall acknowledge the receipt of a referral from a primary referral source as soon as possible. This acknowledgment includes the date the referral was received. General intake information shall be documented; and~~

- ~~(b) The FRC shall be assigned within a reasonable time as outlined in the CLA and EIPA contracts three (3) days of referral and at least one (1) day prior to the FRC's first scheduled visit. (b) The FRC shall contact the parent(s) to discuss the referral to the ESIT program, complete general referral/intake information, and schedule an appointment to complete the intake process.~~

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SCREENING, EVALUATION, AND ASSESSMENT PROCEDURES

9.B PROCEDURES

- 9.A.1 The SLA ensures procedures that in the event that exceptions to the 45-day timeline exist, as described in paragraph 9.B.2 above, the [CLALLA](#), [EIPA](#), or EIS provider shall:
- (a) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the [CLALLA](#), [EIPA](#), or EIS provider to obtain parental consent;
 - (b) Complete the screening, the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in paragraph 9.B.2 above no longer exist or parental consent is obtained for the screening, the initial evaluation, and the initial assessment of the child; and
 - (c) Develop and implement an interim IFSP, to the extent appropriate and consistent with these policies and procedures.
- 9.A.2 The [CLALLA](#), [EIPA](#), or EIS provider is not required to conduct screening activities. However, if the [CLALLA](#), [EIPA](#), or EIS provider chooses to conduct screening activities, the following applies:
- (a) The purpose of the screening is to determine if further evaluation activities are required; and
 - (b) The screening shall include the administration of appropriate instruments by personnel trained to administer those instruments.
- 9.A.3 If the [CLALLA](#), [EIPA](#), or EIS provider proposes to screen a child who has been referred to part C of IDEA, it shall:
- (a) Provide the parent notice under these policies and procedures of its intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation under part C of IDEA at any time during the screening process; and
 - (b) Obtain parental consent as required in these policies and procedures before conducting the screening procedures.
- 9.A.4 If the parent consents to the screening and the screening or other available information indicates that the child is:
- (a) Suspected of having a disability, after notice is provided under these policies and procedures and once parental consent is obtained as required under these policies and procedures, an evaluation and assessment of the child shall be conducted; or
 - (b) If the parent of the child requests and consents to an evaluation at any time during the

screening process, evaluation of the child shall be conducted according to these policies and procedures, even if the CLALLA, EIPA or EIS provider has determined according to these policies and procedures that the child is not suspected of having a disability. The CLA, EIPA or EIS provider ~~LLA~~ shall provide the parent with prior written notice of this determination and include in the notice information about the parent's right to request an evaluation.

- 9.A.5 For every child under the age of three who is referred to the ESIT program or screened in accordance with these policies and procedures, the CLA,LLA—EIPA or EIS provider is not required to:
- (a) Provide an evaluation of the child unless the child is suspected of having a disability or the parent requests an evaluation; or
 - (b) Make EIS available under part C of IDEA to the child unless a determination is made that the child meets the definition of infant or toddler with a disability.
- 9.A.6 If the child's part C of IDEA eligibility is established under paragraph 9.B.8 above, CLALLA, EIPA or EIS provider shall conduct assessments of the child and family in accordance with these policies and procedures.
- 9.A.7 In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility under part C of IDEA. Procedures shall include:
- (a) Administering an evaluation instrument;
 - (b) Taking the child's history, including interviewing the parent;
 - (c) Identifying the child's level of functioning in each of the developmental areas, as defined in these policies and procedures;
 - (d) Gathering information from other sources, such as family members, other care givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
 - (e) Reviewing medical, educational, or other records.
- 9.A.8 An assessment of each infant or toddler with a disability shall be conducted by qualified personnel, in order to identify the child's unique strengths and needs and the EIS appropriate to meet those needs. The assessment of the child is required for the development of initial and ongoing services and shall include the following:
- (a) A review of the results of the evaluation conducted under these policies and procedures;
 - (b) Personal observations of the child; and
 - (c) The identification of the child's needs in each of the developmental areas as defined in these policies and procedures.
- 9.A.9 A family-directed assessment shall be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns; and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment shall:

- (a) Be voluntary on the part of each family member participating in the assessment;
- (b) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
- (c) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

9.A.10 If, based on the evaluation conducted under these policies and procedures, the [CLALLA or EIPA](#) determines that a child is not eligible under part C of IDEA, the [LLA-CLA, EIPA or EIS provider](#) shall provide the parent with prior written notice required in these policies and procedures, and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under these policies and procedures, such as requesting a due process hearing or mediation or filing a state complaint.

10 IFSP DEVELOPMENT, REVIEW, AND EVALUATION PROCEDURES

10.B PROCEDURES

10.A.1 IFSP development, review, and evaluation

- (a) After initial evaluation and assessment, if the evaluation team determines the child is:
 - (1) Eligible for services, prior written notice of eligibility shall be provided to the parent(s) and an IFSP shall be developed within forty-five days of the initial referral date, as described in Policy 9.B.1 Screening, Evaluation and Assessment; and
 - (2) Not eligible for services, prior written notice of ineligibility shall be provided to the parent(s) within forty-five days of the initial referral date. An IFSP is not developed for the child and family; and
- (b) A review of the IFSP for a child and the child's family shall be conducted every six months or more frequently if conditions warrant, or if the family requests such a review;
- (c) The purpose of the periodic review is to determine:
 - (1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
 - (2) Whether modification or revision of the results, outcomes, or EIS identified in the IFSP is necessary; and
- (d) The IFSP review may be carried out by a meeting or by another means that is acceptable to the parents and other participants;
- (e) Each periodic review shall provide for the participation of:
 - (1) The parent or parents of the child;
 - (2) Other family members as requested by the parent, if feasible to do so;
 - (3) An advocate or person outside of the family if the parent requests that the person participate;
 - (4) The Family Resources Coordinator (FRC) designated by the LLA or EIPA to be responsible for implementing the IFSP; and
 - (5) If conditions warrant, provisions shall be made for the participation of:
 - (i) A person or persons directly involved in conducting the evaluations and assessments under these policies and procedures; and

- (ii) As appropriate, persons who will be providing EIS under part C of IDEA to the child or family; and
- (f) A meeting shall be conducted on at least an annual basis to evaluate the IFSP for a child and the child's family and to develop a new IFSP;
- (g) The results of any current evaluations and other information available from the assessments of the child and family conducted under these policies and procedures shall be used in determining what EIS are needed and will be provided;
- (h) All IFSP meetings, initial, annual, and periodic, shall be conducted:
 - (1) In settings and at times that are convenient to families; and
 - (2) 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; and
- (i) Meeting arrangements shall be made with, and written notice provided to, the family and other participants, early enough before the meeting date to assure that they will be able to attend;
- (j) The contents of the IFSP shall be fully explained to the parents and informed written consent, as described in these policies and procedures, shall be obtained prior to the provision of EIS described in the IFSP. Each early intervention service shall be provided as soon as possible after the parent provides consent for that service, as required in this section;
- (k) Each initial meeting and each annual IFSP team meeting to evaluate the IFSP shall include the following participants:
 - (1) The parent or parents of the child
 - (2) Other family members as requested by the parent, if feasible to do so
 - (3) An advocate or person outside of the family, if the parent requests that the person participate
 - (4) The FRC designated by the [CLALLA or EIPA](#) to be responsible for implementation of the IFSP
 - (5) A person or persons directly involved in conducting the evaluations and assessments under these policies and procedures
 - (6) As appropriate, persons who will be providing EIS under part C of IDEA to the child or family; and
- (l) If a person or persons directly involved in conducting the evaluations and assessments under these policies and procedures is unable to attend any meeting, arrangements shall be made for the person(s) involvement through other means, including one of the following:
 - (1) Participating in a telephone conference call;
 - (2) Having a knowledgeable and authorized representative attend the meeting; or
 - (3) Making pertinent records available at the meeting.

10.A.2 **Content of the IFSP**

(a) **The IFSP shall include:**

- (1) Based on the information from the child's evaluation and assessments conducted under these policies and procedures, a statement of the infant or toddler with a disability's present levels of:
 - (i) Physical development, including: fine motor, gross motor, vision, hearing, and health status
 - (ii) Cognitive development
 - (iii) Communication development
 - (iv) Social or emotional development and
 - (v) Adaptive development; and
- (2) With the concurrence of the family, a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under these policies and procedures;
- (3) A statement of the measurable results or measurable outcomes expected to be achieved for the child, including preliteracy and language skills, as developmentally appropriate for the child and family, and the criteria, procedures, and timelines used to determine:
 - (i) The degree to which progress toward achieving the results or outcomes, identified in the IFSP, is being made; and
 - (ii) Whether modifications or revisions of the expected results or outcomes or EIS identified in the IFSP are necessary; and
- (4) A statement of the specific EIS based on peer-reviewed research, to the extent practicable, that are necessary to meet the unique needs of the child and the family, to achieve the results or outcomes identified above including:
 - (i) Length, duration, frequency, intensity, and method of delivering the EIS;
 - (ii) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with these policies and procedures, or subject to part C of IDEA, a justification as to why an early intervention service will not be provided in the natural environment;
 - (iii) The determination of the appropriate setting for providing EIS to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, shall be:
 - (A) Made by the IFSP team, which includes the parent and other team members;
 - (B) Consistent with the provisions in these policies and procedures; and
 - (C) Based on the child's outcomes that are identified by the IFSP team; and

- (iv) The location of the EIS; and
 - (v) The payment arrangements, if any; and
- (b) EIS providers may not interrupt, modify, or otherwise change the delivery of EIS for reasons unrelated to the child's individual needs, including service availability, changes in EIS providers' schedules, or availability of staff including, during summer months;
- (c) **Other Services:**
 - (1) The IFSP shall identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required by team agreement or funded under part C of IDEA; and
 - (2) If those services are not currently being provided, include a description of the steps the FRC or family may take to assist the child and family in securing those other services; and
- (d) The projected date for the initiation of each early intervention service in the IFSP, which date shall be as soon as possible after the parent consents to the service, as required in these policies and procedures and the anticipated duration of each service;
- (e) The name of the FRC from the profession most relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities under this part C of IDEA, who will be responsible for implementing the EIS identified in a child's IFSP, including transition services, and coordination with other agencies and persons. In meeting the requirements of this section, the term "profession" includes "service coordination;"
- (f) **Transition Steps and Services:**
 - (1) Steps and services to be taken to support the smooth transition of the child in accordance with these policies and procedures from part C of IDEA to:
 - (i) Preschool services under part B of IDEA, to the extent that those services are appropriate; or
 - (ii) Other appropriate services; and
 - (2) The steps required in this section include:
 - (i) Discussions with and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
 - (ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
 - (iii) Confirmation that child find information about the child has been transmitted to the local educational agency (LEA) or other relevant agency, in accordance with these policies and procedures and, with parental consent if required under these policies and procedures, transmission of additional information needed by the LEA to ensure continuity of services from the part C of IDEA program to the part B of IDEA program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with these policies and procedures; and

- (iv) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

10.A.3 **Interim IFSPs – provision of services before evaluations and assessments are completed**

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessment if the following conditions are met:

- (a) Parental consent is obtained;
- (b) An interim IFSP is developed that includes:
 - (1) The name of the FRC who will be responsible, consistent with these policies and procedures, for implementation of the interim IFSP and coordination with other agencies and persons; and
 - (2) The EIS that have been determined to be needed immediately by the child and the child's family; and
- (c) Evaluations and assessments are completed within the 45-day timeline, in accordance with these policies and procedures.

10.A.4 **Responsibility and accountability** Each public agency or early intervention service provider who has a direct role in the provision of EIS is responsible for making a good faith effort to assist each eligible child and family in achieving the outcomes in the child's IFSP. However, part C of IDEA does not require that any public agency or early intervention service provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

12 TRANSITION PROCEDURES

12.B PROCEDURES

- 12.A.1 The ~~CLALLA and EIPA and FRC~~ are responsible for ensuring transition steps and services are developed and implemented for any toddler who will transition from EIS to the following programs or services:
- Preschool services under part B of IDEA;
 - Part C of IDEA services when there is a state option to make EIS available to children ages three and older; and
 - Other appropriate services.
- 12.A.2 The ~~CLA and EIPALLA, and FRC~~ are responsible for ensuring that notification requirements are met and shall disclose, as outlined below, the following personally identifiable information:
- A child's name;
 - A child's date of birth; and
 - Parent contact information, including parents' names, addresses, and telephone numbers.
- 12.A.3 This information is needed to enable the SLA, as well as LEAs and the SEA under part B of IDEA, to identify all children potentially eligible for services under part B of IDEA. The SLA shall:
- Not fewer than 90 days before the third birthday of the toddler with a disability, if that toddler has been determined to be potentially eligible for special education and related services under part B of IDEA, will notify the SEA and the LEA for the area in which the toddler resides that the toddler, on his or her third birthday, will reach the age of eligibility for services under part B of IDEA, as determined in accordance with Washington State law;
 - If the toddler is determined eligible for EIS under part C of IDEA more than 45 but less than 90 days before that toddler's third birthday and if that toddler has been determined to be potentially eligible for special education services under part B of IDEA, as soon as possible after determining the child's eligibility, notify the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under part B of IDEA, as determined in accordance with Washington State law; or
 - Ensure that if a toddler is referred to ~~ESIT or~~ ESIT or ~~CLA or EIPA~~ fewer than 45 days before that toddler's third birthday and that toddler may be eligible for special education and related services under part B of IDEA, with the parental consent required under these policies and procedures, the CLA or EIPALLA and the FRC refers the toddler to the SEA

and the LEA for the area in which the toddler resides. The [CLA or EIP](#)~~LLA and FRC~~ are not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

12.A.4 The [CLA or EIP](#)~~LLA and the FRC~~, who are responsible for facilitating the implementation of the IFSP, shall establish potential eligibility for part B services, with the IFSP team, according to Washington State's definition and enter the decision into the ESIT data management system (DMS).

12.A.5 The [CLA or EIP](#)~~LLA and the FRC~~, who are responsible for facilitating the transition conference shall:

- (a) If a toddler with a disability has been determined to be potentially eligible for special education and related services under part B of IDEA, with the approval of the family of the toddler, convene a transition conference, among the [CLA, EIP, EIS providers](#)~~LLA, the FRC~~, the family, and the LEA not fewer than 90 days, and, at the discretion of all parties, not more than 9 months, before the toddler's third birthday to discuss any services the toddler may receive under part B of IDEA; and
- (b) If determined that a toddler with a disability is not potentially eligible for special education and related services under part B of IDEA, with the approval of the family of that toddler, make reasonable efforts to convene a transition conference among the [CLA, EIP, EIS provider](#)~~FRC~~, the family, and providers of other appropriate services for the toddler, to discuss appropriate services that the toddler may receive.

12.A.712.A.6 The [CLA or EIP](#)~~LLA and the FRC~~, who are responsible for facilitating the transition plan in the IFSP, shall:

- (a) Review the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;
- (b) Ensure each family of a toddler with a disability who is served under part C of IDEA is included in the development of the transition plan required under these policies and procedures and the policies related to the IFSP;
- (c) Establish a transition plan in the IFSP not fewer than 90 days, and, at the discretion of all parties, not more than 9 months, before the toddler's third birthday; and
- (d) Ensure the transition plan, as part of the IFSP, includes the following steps and services:
 - (1) Discussions with, and training of parents, as appropriate, regarding future placements and other matters related to the child's transition;
 - (2) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in a new setting;
 - (3) Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency; and
 - (4) With parent consent, the transmission of additional information needed by the LEA or other relevant agency to ensure continuity of services from part C of IDEA early intervention to part B of IDEA special education which may include:

- (i) A copy of the most recent evaluation and assessments of the child and the family;
- (ii) A copy of the most recent IFSP developed; and
- (iii) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

12.A.812.A.7 Any conference conducted to discuss services or meeting convened to develop the transition plan, (the conference and meeting may be combined into one meeting) shall meet the IFSP meeting requirements related to accessibility and convenience of meetings, parental consent requirements, and initial and annual IFSP meeting participant requirements.

13 PROCEDURAL SAFEGUARDS PROCEDURE

13.B PROCEDURES

13.A.1 Confidentiality of information

(a) **Definitions:**

The following definitions apply to this section:

- (1) **DESTRUCTION** means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable;
- (2) **PARTICIPATING AGENCY** means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in part C of IDEA and its implementing regulations with respect to a particular child. A participating agency includes the SLA, [LLACLAs](#), [EIPAs](#), [FRCs](#), [EIS providers](#) and any individual or entity that provides any part C of IDEA services (including service coordination, evaluations and assessments, and other part C of IDEA services), but does not include primary referral sources, or public agencies (such as the state Medicaid or CHIP program) or private entities (such as private insurance companies) that act solely as funding sources for part C of IDEA services; and
- (3) **PERSONALLY IDENTIFIABLE INFORMATION** means information that includes, but is not limited to, the following:
 - (i) The name of the child, the child's parent, or other family members;
 - (ii) The address of the child or child's family;
 - (iii) A personal identifier, such as the child's or parent's social security number, child number, or biometric record; or
 - (iv) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty;
 - (v) Other indirect identifiers such as the child's date of birth, place of birth, and mother's maiden name;
 - (vi) Other information that alone or in combination is linked or linkable to a specific child that would allow a reasonable person in the early intervention community, who does not have personal knowledge of the relevant circumstances, to identify the child with reasonable certainty; or

- (vii) Information requested by a person who the contractor reasonably believes knows the identity of the child to whom the early intervention record relates; and

(b) **Notice to parents:** The ~~CLA, EIPA or- EIS providers~~ ~~LLA or EIS provider~~ shall give notice when a child is referred under part C of IDEA, that is adequate to fully inform parents about the requirements under confidentiality, including:

- (1) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
- (2) A summary of the policies and procedures that participating agencies shall follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;
- (3) A description of all the rights of parents and children regarding this information, including their rights under the part C of IDEA confidentiality provisions;
- (4) A description of the extent that the notice is provided in the native languages of the various population groups in Washington State; and
- (5) When children transfer to another early intervention program within Washington State:
 - (i) Parental consent is not needed to transfer records generated by the early intervention program to the receiving early intervention program; and
 - (ii) Parental consent is required to transfer records not generated by the early intervention program to the receiving early intervention program; and

(c) **Access rights:**

- (1) Each participating agency shall permit parents to inspect and review, during business hours, any early intervention records relating to their child that are collected, maintained, or used by the agency under part C of IDEA. The agency shall comply with the parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any impartial due process hearing and in no case more than 10 days after the request has been made;
- (2) The right to inspect and review early intervention records under these policies and procedures includes:
 - (i) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records;
 - (ii) The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

- (iii) The rights to have a representative of the parent inspect and review the early intervention records; and
- (3) An agency may presume that the parent has authority to inspect and review records relating to their 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; and
- (4) The CLALLA, EIPA-or EIS provider shall make available to parents an initial copy of the child's early intervention record, at no cost to the parents; and
- (d) **Record of access:** Each participating agency shall keep a record of parties obtaining access to early intervention records collected, maintained, or used under part C of IDEA, except access by parents and authorized representatives of the participating agency, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records;
- (e) **Records on more than one child:** If any early intervention record includes information on more than one child, the parent(s) of those children have the right to inspect and review only the information relating to their child, or to be informed of that specific information;
- (f) **List of types and locations of information** Each participating agency shall provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency;
- (g) **Fees:**
 - (1) Except for the initial copy, each participating agency may charge a fee for copies of records that are made for parents under part C of IDEA, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records except as provided in (3) below;
 - (2) A participating agency may not charge a fee to search for or to retrieve information under part C of IDEA; and
 - (3) A participating agency shall provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting; and
- (h) **Amendment of records at parent's request:**
 - (1) A parent who believes that information in early intervention records collected, maintained, or used under part C of IDEA is inaccurate or misleading or violates the privacy or other rights of the child or parent, may request the participating agency that maintains the information to amend the information;
 - (2) The participating agency shall decide whether to amend the information, in accordance with the request, within a reasonable period of time of receipt of the request; and

- (3) If the participating agency decides to refuse to amend the information, in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under this policy; and
- (i) **Opportunity for a hearing:** The participating agency, on request, shall provide parents with an opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent. A parent may request a due process hearing under the part C of IDEA procedures, provided that such hearing procedures meet the requirements of the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR [Part §99](#) or may request a hearing directly under the FERPA procedures below;
- (j) **Family Educational Rights and Privacy Act (FERPA) hearing procedures regarding records:** A FERPA hearing initiated pursuant to this policy to challenge information in early intervention records shall be conducted according to procedures that include at least the following elements:
 - (1) The hearing shall be held within a reasonable period of time after the participating agency has received the request;
 - (2) The parent shall be given notice of the date, time, and place reasonably in advance of the hearing;
 - (3) The hearing may be conducted by any individual, including an official of the participating agency, who does not have a direct interest in the outcome of the hearing;
 - (4) The parent shall be given a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his or her choice, at his or her own expense, including an attorney;
 - (5) The participating agency shall provide a written decision to the parent, within a reasonable period of time after the conclusion of the hearing; and
 - (6) The decision shall:
 - (i) Be based solely upon the evidence presented at the hearing; and
 - (ii) Include a written summary of the evidence and the reasons for the decision; and
- (k) **Result of hearing:**
 - (1) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent, it shall amend the information accordingly and so inform the parent in writing;
 - (2) If, as a result of the hearing, a decision is made that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parent, the participating agency shall inform the parent(s) of the right to place in the records it maintains on the child a statement commenting

on the information or setting forth any reasons for disagreeing with the decision of the agency; and

- (3) Any explanation placed in the records of the child pursuant to this policy shall:
 - (i) Be maintained by the participating agency, as part of the records of the child, as long as the record or contested portion is maintained by the agency; and
 - (ii) If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation shall also be disclosed; and

(I) **Consent:**

- (1) Without parental consent, the SLA shall disclose to the state educational agency (SEA) and the local educational agency (LEA) where the child resides, in accordance with the state interagency transition agreement, the following personally identifiable information under IDEA:
 - (i) A child's name;
 - (ii) A child's date of birth; and
 - (iii) Parent contact information (including parents' names, addresses, and telephone numbers); and
- (2) The information listed above is needed to enable the SLA, as well as LEAs and the SEA under part B of IDEA, to identify all children potentially eligible for services under part C of IDEA and part B of IDEA;
- (3) Except as provided in paragraph (4) below, prior parental consent shall be obtained before personally identifiable information is:
 - (i) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part C of IDEA, subject to (4) of this section; or
 - (ii) Used for any purpose other than meeting a requirement of part C of IDEA; and
- (4) The SLA or other participating agency may not disclose personally identifiable information to any party except participating agencies, including the SLA, [CLLAs](#), [EIPAs](#), [FRCs](#), and EIS providers, that are part of the state's early intervention program without parental consent, unless authorized to do so under:
 - (i) The transition requirements in these policies and procedures and the state's interagency agreement for transition as referenced in (1) above; or
 - (ii) One of the exceptions enumerated in FERPA regulations at 34 CFR §99.31, where applicable to part C of IDEA, which are expressly adopted to apply to part C of IDEA through this reference. In applying the exceptions in FERPA at 34 CFR §99.31 to part C of IDEA, participating agencies shall also comply with the pertinent conditions in 34 CFR §§99.32, 99.33, 99.34, 99.35, and 99.36; and

- (5) The SLA shall provide policies and procedures to be used when a parent refuses to provide consent under this policy, such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under part C of IDEA, provided that those procedures do not override a parent's right to refuse consent under these policies and procedures; and

(m) **Safeguards:**

- (1) Each participating agency shall protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages;
- (2) The participating agency shall designate one individual responsible for ensuring the confidentiality of any personally identifiable information;
- (3) All persons collecting or using personally identifiable information shall receive training or instruction regarding:
 - (i) The policies and procedures on protection of the confidentiality of personally identifiable information; and
 - (ii) FERPA; and
- (4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees, within the agency, who may have access to personally identifiable information; and

(n) **Destruction of information:**

- (1) The participating agency shall inform parents when personally identifiable information collected, maintained, or used under part C of IDEA is no longer needed to provide services to the child under part C of IDEA of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR ~~§§~~Part 76 and 80; and
- (2) Subject to paragraph (1) of this section, the information shall be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information, including address and phone number, names of FRCs and EIS provider(s), and exit data, including year and age upon exit, and any programs entered into upon exiting, may be maintained without time limitation.

13.A.2 **Prior written notice**

- (a) ~~Unless the parent requests a shorter time period, Pp~~Prior written notice shall be provided to the parent(s), ~~at least seven (7) to ten (10) calendar days in a reasonable time reasonable time~~ before the SLA, ~~LLA~~CLA, ~~or EIPA, the FRC~~ or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler or the provision of appropriate EIS to the child and the family.
- (b) The notice shall be in sufficient detail to inform the parents about:
 - (1) The action that is being proposed or refused;
 - (2) The reasons for taking the action; and

- (3) All the procedural safeguards that are available under part C of IDEA including a description of mediation, how to file a state complaint and a due process hearing, including any timelines under those procedures.
- (c) The notice shall be:
 - (1) Written in language understandable to the general public; and
 - (2) Provided in the native language, as defined in these policies and procedures, of the parent or other mode of communication used by the parent, 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 ~~LLA, CLA and EIPA, the FRC~~ or EIS provider shall take steps to assure 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; and
 - (3) There is written evidence that the requirements of this policy have been met.

13.A.3 **Parental consent and ability to decline services**

- (a) Obtaining parental consent requires that the parent(s):
 - (1) Has been fully informed, in the parent(s)' native language, of all information relevant to the activity for which consent is sought;
 - (2) 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
 - (3) Understands the granting of consent is voluntary on the part of the parent(s) and may be revoked at any time.
- (b) The ~~CLA, and EIPA LLA~~ and EIS provider shall ensure parental consent is obtained before:
 - (1) Administering screening procedures under these policies and procedures that are used to determine whether a child is suspected of having a disability;
 - (2) All evaluations and assessments of a child are conducted under these policies and procedures;
 - (3) Early intervention services are provided to the child under part C of IDEA;
 - (4) Public benefits or insurance or private insurance is used if such consent is required under these policies and procedures; and
 - (5) Disclosure of personally identifiable information consistent with policies and procedures related to disclosure of confidential information.
- (c) If a parent does not give consent for screening, evaluations and assessments, or the provision of EIS, ~~the CLA, and EIPA the LLA~~ or EIS provider shall make reasonable efforts to ensure that the parent:
 - (1) Is fully aware of the nature of the evaluation and assessment of the child or EIS that would be available; and

- (2) Understands that the child will not be able to receive the evaluation, assessment, or early intervention service unless consent is given.
- (d) The SLA, [CLALLA](#), [EIPA](#), or ~~EIS~~ provider may not use the due process hearing procedures under part C of IDEA ~~or part B of IDEA~~ to challenge a parent's refusal to provide any consent that is required under this policy.
- (e) The parents of an infant or toddler with a disability:
 - (1) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under part C of IDEA at any time, in accordance with state law; and
 - (2) May decline a service after first accepting it, without jeopardizing other EIS under part C of IDEA. If a parent(s) revokes consent, that revocation is not retroactive to an action that occurred before the consent was revoked.

13.A.4 **Surrogate parents**

- (a) Each ~~LLA-CLA~~, [EIPA](#) or ~~EIS~~ provider shall ensure that the rights of the child are protected when:
 - (1) No parent, as defined in these policies and procedures, can be identified;
 - (2) The ~~CLALLA~~, [EIPA](#) or ~~EIS~~ provider, after reasonable efforts, cannot locate a parent; or
 - (3) The child is a ward of the state of Washington under the laws of the state.
- (b) The duty of the ~~LLA-CLA~~, [EIPA](#) or ~~other~~ ~~EIS~~ provider under part C of IDEA includes the assignment of an individual to act as a surrogate for the parent. This assignment process shall include a method for:
 - (1) Determining whether a child needs a surrogate parent; and
 - (2) Assigning a surrogate parent to the child.
- (c) In implementing the provisions under this section for children who are wards of the state or placed in foster care, the ~~LLA-CLA~~, [EIPA](#) or ~~EIS~~ provider shall consult with the public agency that has been assigned care of the child.
- (d) In the case of a child who is a ward of the state, the surrogate parent, instead of being appointed by the ~~LLA-CLA~~, [EIPA](#) or ~~EIS~~ provider may be appointed by the judge overseeing the infant or toddler's case provided that the surrogate parent meets the requirements in this policy.
- (e) The ~~CLALLA~~, [EIPA](#) or ~~other~~ ~~EIS~~ provider may select a surrogate parent in any way permitted under state law.
- (f) Public agencies shall ensure that a person selected as a surrogate parent:
 - (1) Is not an employee of the SLA, ~~CLALLA~~, [EIPA](#), or any other public agency or ~~EIS~~ provider that provides EIS, education, care, or other services to the child or any family member of the child;
 - (2) Has no personal or professional interest that conflicts with the interest of the child he or she represents; and
 - (3) Has knowledge and skills that ensure adequate representation of the child.

- (g) A person who is otherwise qualified to be a surrogate parent under this policy is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.
- (h) The surrogate parent has the same rights as a parent for all purposes under part C of IDEA.
- (i) The [LLA-CLA, EIPA](#) or -EIS provider shall make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

13.A.5 **Dispute resolution options**

(a) **Mediation:**

- (1) The SLA shall ensure that procedures are established and implemented to allow parties to disputes involving any matter under part C of IDEA, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.
- (2) The procedures shall meet the following requirements:
 - (i) The procedures shall ensure that the mediation process:
 - (A) 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 to deny any other rights afforded under part C of IDEA; and
 - (C) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
 - (ii) The SLA shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of EIS.
- (3) The SLA shall select mediators on a random, rotational, or other impartial basis.
- (4) The SLA shall bear the cost of the mediation process, including the costs of meetings described in paragraph (5) below.
- (5) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.
- (6) If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that sets forth that resolution and that:
 - (i) States that 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
 - (ii) Is signed by both the parent and a representative of the [LLA-SLA, CLA, EIPA](#) or EIS provider who has the authority to bind such agency.
- (7) A written, signed mediation agreement under this paragraph is enforceable in any Washington state court of competent jurisdiction or in a district court of the United States.

- (b) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or Washington state court.
- (c) **Mediator:**
- (1) An individual who serves as a mediator under part C of IDEA:
 - (i) May not be an employee of the SLA, [LLACLA](#), [EIPA](#), or [an](#)-EIS provider that is involved in the provision of EIS or other services to the child; and
 - (ii) Shall not have a personal or professional interest that conflicts with the person's objectivity.
 - (2) A person who otherwise qualifies as a mediator is not an employee of the SLA, [LLACLA](#), [EIPA](#), or [an](#)-EIS provider solely because he or she is paid by the agency or provider to serve as a mediator.
 - (3) The SLA may establish procedures to offer to parents, [CLLAs](#), [EIPAs](#) and EIS providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:
 - (i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center, or community parent resource center in Washington state established under 34 CFR §§671 or 672; and
 - (ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.
- (d) **Impartial due process hearing:**
- (1) The SLA shall adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding the identification, evaluation, or placement of the infant or toddler, or the provision of EIS to the infant or toddler with a disability and that infant's or toddler's family.
 - (2) The SLA has adopted part C of IDEA due process hearing procedures that meet the requirements of the part C of IDEA regulations and provide a means of filing a request for a due process hearing.
 - (3) Whenever a due process hearing request is received, a due process hearing officer shall be appointed to implement the complaint resolution process in this policy. The person shall:
 - (i) Have knowledge about the provisions of part C of IDEA and the needs of, and EIS available for, infants and toddlers with disabilities and their families; and
 - (ii) Perform the following duties:
 - (A) Listen to the presentation of relevant viewpoints about the due process complaint
 - (B) Examine all information relevant to the issues
 - (C) Seek to reach a timely resolution of the due process complaint
 - (D) Provide a record of the proceedings, including a written decision
 - (4) Impartial means that the due process hearing officer appointed to implement the due process hearing under part C of IDEA:

- (i) Is not an employee of the SLA, [LLACLA](#), [EIPA](#), or an-EIS provider involved in the provision of EIS or care of the child; and
 - (ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.
- (5) A person who otherwise qualifies under this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures under part C of IDEA.
- (6) The SLA shall ensure that the parents of a child referred to part C of IDEA are afforded the rights listed below in the due process hearing carried out under this policy. Any parent involved in an impartial due process hearing has the right to:
 - (i) At the parent's expense, be accompanied and advised by counsel and by individuals with special knowledge or training with respect to EIS for infants and toddlers with disabilities;
 - (ii) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
 - (iii) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
 - (iv) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
 - (v) Receive a copy of the findings of fact and decisions at no cost to the parent.
- (7) Any due process hearing conducted under these policies and procedures shall be carried out at a time and place that is reasonably convenient to the parents.
- (8) The SLA shall ensure that, not later than thirty calendar days after the receipt of a parent's due process complaint, the due process hearing required under this policy is completed and a written decision mailed to each of the parties.
- (9) A hearing officer may grant specific extensions of time beyond the period set out in this section at the request of either party.
- (10) Any party aggrieved by the findings and decision issued pursuant to an impartial due process hearing has the right to bring a civil action in Washington state or federal court under IDEA.
- (11) During the pendency of any proceeding involving a due process complaint under this section, unless the SLA and parents of an infant or toddler with a disability otherwise agree, the child shall continue to receive the appropriate EIS in the setting identified in the IFSP that is consented to by the parents. If the due process complaint under these policies and procedures involves an application for initial services under part C of IDEA, the child shall receive those services that are not in dispute.

23 DATA COLLECTION AND REPORTING PROCEDURES

23.B PROCEDURES

- 23.A.1 The SLA shall compile data by requiring the [LLAs-CLAs](#), [EIPAs](#) and EIS providers to enter data into the ESIT electronic data management system (DMS), as outlined in each [LLA-CLA](#) and [EIPA](#) contract. The ESIT DMS generates automated data reports. DMS reports will calculate following data:
- (a) The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who are receiving EIS;
 - (b) The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving EIS because of program completion or for other reasons;
 - (c) The settings in which EIS are primarily provided, by age, race/ethnicity; and
 - (d) Other information requested by the SLA or the secretary.
- 23.A.2 Gathering data from existing information systems managed by state agencies that administer funds or provide EIS.
- 23.A.3 The SLA shall include in its report to the secretary a certification signed by an authorized official of the SLA that the information provided under 23.B.1 above is an accurate and unduplicated count of infants and toddlers with disabilities receiving EIS.
- 23.A.4 In each case, the data collected from the DMS will supply the data required by the U.S. Department of Education, Office of Special Education Programs, and will be based on the submission requirements identified by the secretary.
- 23.A.5 The data described in this policy will be publicly reported by the state in a manner that does not result in the disclosure of data identifiable to individual children.

24 SUPERVISION, MONITORING, AND ENFORCEMENT PROCEDURES

24.B PROCEDURES

- 24.A.1 The SLA implements a ~~three~~multi-pronged approach to meet its general supervision and monitoring responsibilities, including:
- (a) **ESIT program DMS census data monitoring:**
- (1) The ESIT DMS gathers [LLA-CLA and EIPA](#) census data that is used to monitor on SPP/APR compliance indicators and state selected compliance indicators. The ESIT DMS compliance report feature identifies each individual instance of child specific noncompliance reflected in the child's record and provides the means to verify the timely correction of each individual instance of noncompliance that has occurred.
 - (2) ESIT staff will:
 - (i) Provide notice to each [LLA-CLA and EIPA](#) that the compliance report data for a specified time period shall be accurately entered into the DMS;
 - (ii) Review and verify their data for accuracy;
 - (iii) Set the date that compliance data will be taken from the DMS;
 - (iv) Provide technical assistance to ensure data is accurately entered into the DMS and that sufficient information is entered for "reasons" related to noncompliance for each child so that ESIT can draw conclusions about the root cause of any noncompliance;
 - (v) Freeze compliance report data, review and analyze;
 - (vi) Determine if there is any noncompliance based upon review of the data;
 - (vii) Determine if the noncompliance has already been corrected;
 - (viii) Determine the level of noncompliance, which includes establishing where and how much the noncompliance is occurring;
 - (ix) Determine the contributing factors and root cause of the noncompliance.
 - (x) Determine if the noncompliance is isolated or systemic;
 - (xi) Identify the required corrective actions and data needed to verify correction has occurred;

- (xii) Provide written notification of noncompliance that may include required corrective actions, local determination status, and site selection for ESIT onsite monitoring; and
- (xiii) Provide written notification of noncompliance within three (3) months from the date the compliance monitoring data was taken from the DMS.

~~(b) — LLA Self Assessment Tool process:~~

- ~~(1) — The LLA Self-Assessment Tool process will focus on reviewing data that will be used by the SLA, LLAs, EIS providers, and subcontractors to do the following:~~
 - ~~— Identify noncompliance or areas where improvement is needed;~~
 - ~~(i) — Assist in the identification of the quality practices that are being implemented;~~
 - ~~(i) — Assist in the identification of technical assistance and training needed to improve results for children and families;~~
 - ~~(i) — Substantiate that the SLA, LLAs, and EIS providers are complying with federal requirements;~~
 - ~~(i) — Ensure SLA is monitoring the implementation part C of IDEA related requirements associated with each SPP/APR indicator.~~
 - ~~(i) — The LLAs will convene local self-assessment teams who will follow the Self-Assessment Tool process by reviewing child records.~~
 - ~~(i) — The process will gather data from all LLAs on those state selected indicators where data is not available through the DMS.~~
 - ~~(i) — The SLA will generate a list of randomly selected records that will be reviewed by local self-assessment teams.~~
 - ~~(i) — The child records randomly selected for review will be a retrospective review of activities obtained from the records of all children who entered early intervention, received services, and exited the program during the monitoring period.~~
 - ~~(i) — The child's central record, including provider notes, will be needed to conduct the record review.~~
 - ~~The identification and correction of any noncompliance identified through the Self-Assessment Tool process will be documented in the APR.~~

SLA onsite monitoring process: The SLA shall also monitor CLAs and EIPAs based on procedures established jointly between the SLA and CLAs using other mechanisms such as onsite visits, child record reviews, provider interviews, family interviews, etc. ~~Onsite monitoring will follow the process and reflect the content of the Critical Elements Analysis Guide fi(CrEAG) — part C of IDEA, developed by the federal Office of Special Education Programs (OSEP). All LLAs will receive an onsite monitoring visit over the course of a five-year period. Approximately four LLAs will be selected for an onsite monitoring visit annually. Selection of the agencies to receive an onsite monitoring visit is based on their performance on SPP/APR indicators, state selected monitoring indicators, LLA determination status, and Local Self-Assessment Tool process results.~~

24.A.324.A.2 **Review and determination regarding local performance**

- (a) Based on LLA-CLA and EIPA information obtained through the DMS, and other monitoring methods and activities, as described above in 24.B.1.b Self-Assessment Tool process, Onsite Monitoring and any other public information made available, the SLA determines if each LLA-CLA and EIPA:
- (1) Meets the requirements and purposes of part C of IDEA;
 - (2) Needs assistance in implementing the requirements and purposes of part C of IDEA;
 - (3) Needs intervention in implementing the requirements and purposes of part C of IDEA; or
 - (4) Needs substantial intervention in implementing the requirements and purposes of part C of IDEA.
- (b) For determinations made under (a)(2), (a)(3) and (a)(4) above, the SLA will provide reasonable notice and an opportunity to discuss with ~~an LLA~~ the CLA and EIPA their status determination.

24.A.424.A.3 **Enforcement**

- (a) If the SLA determines, for two consecutive years, a LLA-CLA and EIPA needs assistance under 34 CFR §303.703(b)(1)(ii) in implementing the requirements of part C of IDEA, the SLA is required to take one or more of the following actions:
- (1) Advise the LLA-CLA and EIPA of available sources of technical assistance that may help address the areas in which they need assistance. This may include assistance from SLA or other technical assistance providers which may include:
 - (i) The provision of advice by experts to address the areas in which the agency needs assistance, including explicit plans and timelines for addressing the areas of concern;
 - (ii) Assistance in identifying and receiving technical assistance that focuses on provision strategies and methods of early intervention service provision that are based on scientifically based research;
 - (iii) Designating and using LLA-CLA and EIPA and EIS program administrators, FRCs, service providers, and other EIS personnel to provide advice, technical assistance, and support; and
 - (iv) Developing additional approaches to providing technical assistance, such as collaborating with institutions of higher education, Educational Service Districts, national technical assistance centers supported under part D of IDEA, and private consultants.
 - (2) Identify the LLA-CLA and EIPA contractor as a high-risk contractor and

imposes special conditions on the contract the SLA has with the ~~LLA~~CLA and EIPA.

- (b) If the SLA determines, for three or more consecutive years, that an ~~LLA~~CLA and EIPA needs intervention under 34 CFR §303.703(b)(1)(iii) in implementing the requirements of part C of IDEA, one or both of the following will apply:
- (1) The SLA may take any of the actions described in paragraph (a) of this section.
 - (2) The SLA takes one or more of the following actions:
 - (i) Requires the ~~LLA~~CLA and EIPA to complete a corrective action plan.
 - (ii) Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
 - (iii) Withholds, in whole or in part, any further payments to the ~~LLA~~CLA and EIPA.
 - (iv) Refers the matter for appropriate enforcement action.
- (c) When the SLA at any time determines that a ~~LLA~~CLA and EIPA needs substantial intervention in implementing the requirements and purposes of part C of IDEA or that there is a substantial failure by the ~~LLA~~CLA and EIPA to comply with any requirement under part C of IDEA, the SLA will take one or more of the following actions:
- (1) Recover funds under section 452 of GEPA, 20 U.S.C. 1234a.
 - (2) Withhold, in whole or in part, any further payments to the ~~LLA~~CLA or EIPA provider agency.
 - (3) Refer the matter for additional enforcement action.

25 STATE LEAD AGENCY PROCEDURES FOR RESOLVING ADMINISTRATIVE COMPLAINTS

25.B PROCEDURE

- 25.A.1 The party filing the complaint shall forward a copy of the complaint to the [LLACLA](#), [EIPA](#), public agency, or EIS provider serving the child at the same time the party files the complaint with the SLA.
- 25.A.2 The SLA has a time limit of 60 calendar days after a complaint is filed to:
- (a) Carry out an independent on-site investigation, if the SLA determines that such an investigation is necessary;
 - (b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
 - (c) Provide the SLA, [LLACLA](#), [EIPA](#), public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum:
 - (1) At the discretion of the SLA, a proposal to resolve the complaint; and
 - (2) An opportunity for a parent who has filed a complaint and the SLA, [CLALLA](#), [EIPA](#), public agency, or EIS provider to voluntarily engage in mediation, consistent with these policies and procedures; and
 - (d) Review all relevant information and make an independent determination, as to whether the SLA, [LLACLA](#), [EIPA](#), public agency, or EIS provider is violating a requirement of part C of IDEA; and
 - (e) Issue a written decision to the complainant and the [LLA,CLA](#), [EIPA](#), public agency, or EIS provider that addresses each allegation in the complaint and contains:
 - (1) Findings of fact and conclusions; and
 - (2) The reason for the SLA's final decision.
- 25.A.3 In resolving a complaint in which the SLA finds a failure to provide appropriate services, the SLA, pursuant to its general supervisory authority under part C of IDEA, shall address:
- (a) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the

complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and

- (b) Appropriate future provision of services for all infants and toddlers with disabilities and their families.

25.A.4 The SLA shall permit an extension of the 60 day time limit only if:

- (a) Exceptional circumstances exist with respect to a particular complaint; or
- (b) The parent and the [SLA/CLA](#), [EIPA](#), [LLA](#), public agency, or EIS provider involved agree to extend the time to engage in mediation pursuant to this section.

25.A.5 To ensure effective implementation of the SLA's final decision, if needed, the SLA shall:

- (a) Provide technical assistance;
- (b) Negotiate; and
- (c) Ensure corrective actions are implemented in a timely manner.

25.A.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 SLA shall set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the proceeding.

25.A.7 Any issue in the complaint that is not a part of the due process hearing shall be resolved within the 60 calendar day timeline using the above complaint procedures.

25.A.8 If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties:

- (a) The hearing decision is binding on that issue; and
- (b) The SLA shall inform the complainant to that effect.

25.A.9 A complaint alleging that the SLA's, an [LLA's/CLA's](#), [EIPA's](#), a public agency's, or an EIS provider's failure to implement a due process hearing decision shall be resolved by the SLA.

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

26.B PROCEDURES

26.B.1 The agreement with each state agency shall

- (a) Permit the state agency to resolve its own internal disputes, based on the agency's procedures that are included in the agreement, so long as the agency acts in a timely manner; and
- (b) Include the process that the SLA will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

26.B.2 In the event that an interagency dispute arises related to this agreement or disputes about payments or other matters related to the state's ESIT program, the agencies may elect mediation to resolve the dispute or refer the dispute to the Dispute Board. In the event that mediation cannot resolve the dispute, the dispute shall be referred to the Dispute Board for timely resolution.

26.B.3 The Dispute Board will be appointed and convened as disputes arise. The following members will comprise the Dispute Board:

- (a) ~~DEL~~-DCYF shall appoint a member to the Dispute Board;
- (b) Department of social and health services (DSHS) shall appoint a member to the Dispute Board;
- (c) Department of health (DOH) shall appoint a member to the Dispute Board;
- (d) Department of services for the blind (DSB) shall appoint a member to the Dispute Board;
- (e) Health care authority (HCA) shall appoint a member to the Dispute Board;
- (f) OSPI shall appoint a member to the Dispute Board; and
- (g) The chair of the SICC is a member of the Dispute Board and will serve as the Board's Chair.

26.B.4 During a dispute, the SLA, shall

- (a) Assign financial responsibility to an agency to the extent of the agency's responsibility to pay for services, in accordance with the payor of last resort provisions; or
- (b) Pay for the service in accordance with the payor of last resort provisions.

- 26.B.5 **If in resolving a dispute**, it is determined that the assignment of fiscal responsibility was inappropriate, the SLA shall reassign responsibility to the appropriate agency.
- 26.B.6 **Based on the outcome of the dispute resolution**, the SLA shall make arrangements for reimbursement of any expenditures incurred by the agency originally assigned the fiscal responsibility, if appropriate.
- 26.B.7 **The decision** of the Dispute Board shall be final except if referred to the governor.
- 26.B.8 **To the extent necessary to ensure compliance** with the Dispute Board's decision, if any agency involved in the dispute is not satisfied with the Dispute Board's decision, the agency may request the decision be referred to the governor.
- 26.B.9 **The SLA ensures that services are provided** to eligible infants and toddlers and their families in a timely manner, pending resolution of dispute(s).