

**STATE OF NEVADA  
DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)**

**INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)  
PART C  
EARLY INTERVENTION  
POLICY MANUAL**



**Prepared by:  
IDEA Part C Office**

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SECTION #1:  
ADMINISTRATION AND SUPERVISION

Subsection A: Administration

A1.1 – Policy Development Process:

Policies and procedures developed within the Department of Health and Human Services (DHHS) IDEA Part C office, for operation of the statewide system of early intervention services, comply with the Individuals with Disabilities Education Act (IDEA) Part C regulations and are contained within this document. Any and all IDEA Part C 303 regulations noted in this manual refer to applicable regulations found within 34 CFR. Any changes to applicable Federal regulations requiring changes to this manual will include public participation and approval by the U.S. Department of Education, Office of Special Education Programs (OSEP) prior to website posting on the DHHS IDEA Part C website. Policy development and review processes include:

1. Annual review to ensure ongoing compliance with Federal regulations and guidance for the Nevada Early Intervention Services (EIS) System and,
  - a. Internal procedures will provide additional clarification and information to guide staff towards implementation of policies;
2. A standardized format for all policies, procedures, technical assistance and other documents developed or approved by the IDEA Part C Office;
3. Coordination of, and approval by, the IDEA Part C Coordinator regarding any documents posted on the DHHS IDEA Part C website

A1.2 (303.1) – Purpose of the early intervention program for infants and toddlers with disabilities:

The DHHS IDEA Part C Office works with diverse partners and stakeholders to maximize coordination of services to meet the unique needs of infants and toddlers and their families. Coordination includes fiscal entities (payers), community early intervention service providers, other partners, and stakeholders to build budgets and work within the legislative process to:

1. Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;
2. Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

3. Enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;
4. Enhance the capacity of Nevada and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and
5. Encourage Nevada to expand opportunities for children less than three years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

#### A1.3 (303.2, 303.22) – Eligible Recipients of Award:

Nevada is an eligible recipient of IDEA Part C funds and, as a recipient, adheres to all provisions of Part C of IDEA, including the following components:

1. The DHHS is the lead agency;
2. Any provider that is part of the EIS regardless of whether that provider receives funds under part C of IDEA; and
3. All children referred to the Part C program, including infants and toddlers with disabilities consistent with definitions in 303.6 and 303.21 and their families.

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

#### A1.4 (303.3) – Applicable Regulations:

Nevada DHHS IDEA Part C staff adheres to the Education Department General Administrative Regulations (EDGAR), including 34 CFR parts 76 (except for 76.103), 77, 79, 80, 81, 82, 84, 85, and 86 in applying the Part C early intervention program in Nevada along with the Part C regulations at 34 CFR part 303. When applying EDGAR regulations, the State educational agency refers to the lead agency and any education records or records mean early intervention records in accordance with Family Educational Rights and Privacy Act (FERPA).

#### A1.5 (303.100, 303.101, 303.102, and 303.202) – Lead Agency Authority, Eligibility, Conformity (including application and assurances):

In accordance with part C of IDEA, the Secretary has made available to Nevada funds to assist the State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families. Nevada's application for IDEA Part C Federal

funding includes specific application requirements including certifications, descriptions, methods, policies and procedures as required in 303.201-212. As the Lead Agency, appointed by the Nevada Governor and indicated on the Part C grant application, DHHS certifies to the Secretary that the arrangements to establish financial responsibility for the provision of Part C services among appropriate programs/providers (both state entities and contract community providers) is current when submitting certification. DHHS meets the following conditions:

1. Assurances regarding early intervention services and a statewide system. DHHS IDEA Part C provides assurances to the Secretary that:
  - A. Early intervention services, as defined in 303.13, are available to all eligible infants and toddlers with disabilities and their families, including:
    - a. Native American infants and toddlers with disabilities and their families residing on a reservation geographically located in Nevada;
    - b. Infants and toddlers with disabilities who are homeless children and their families; and
    - c. Infants and toddlers with disabilities who are wards of the State.
  - B. Nevada has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including policies and procedures that address, at a minimum, the components required in 303.111 through 303.126.
2. DHHS IDEA Part C provides information and assurances to the Secretary, in accordance with subpart C of this Part, including:
  - A. Information that shows that Nevada meets the State application requirements in 303.200 through 303.212.
  - B. Assurances that Nevada also meets the requirements in 303.221 through 303.227.

#### A1.6 (303.103) – Abrogation of State Sovereign Immunity:

Nevada is not immune under the 11th Amendment of the Constitution of the United States from suit in Federal court for a violation of part C of the Act. In a suit against a State for a violation of part C of the Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in a suit against any public entity other than a State. These requirements apply with respect to violations that occur in whole or part after October 30, 1990, the date of enactment of the Education of the Handicapped Act Amendments of 1990.

#### A1.7 (303.227) – Traditionally Underserved Groups:

Nevada has policies and practices that have been adopted to ensure underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who

are wards of the state, are meaningfully involved in the planning and implementation of all of the requirements of the Part C EIS in Nevada. These families will have access to culturally competent services within their local geographical area.

#### A1.8 (303.228) – Subsequent Application and Modifications of Application:

Anytime the DHHS IDEA Part C Office has on file with the Secretary a policy, procedure, method, or assurance that demonstrates Nevada meets an application requirement under part C of IDEA, including any policy, procedure, method, or assurance filed under part C of IDEA, the Secretary considers Nevada to have met that requirement for purposes of receiving part C of IDEA funds as in effect before the date of enactment of the Act (12/3/04). An application submitted by Nevada that meets the requirements of part C of IDEA remains in effect until Nevada submits to the Secretary such modifications as Nevada determines necessary. This policy applies to modifications of an application to the same extent and in the same manner as this policy applies to the original application. The Secretary may require Nevada to modify its application under part C of IDEA to the extent necessary to ensure Nevada's compliance with Part C if:

1. An amendment is made to IDEA or to a Federal regulation under IDEA.
2. A new interpretation of IDEA is made by a federal court or Nevada's highest court.
3. An official finding of noncompliance with Federal laws or regulations is made with respect to Nevada.

### Subsection B: Authority and Oversight

#### B1.1 (303.112) – Availability of Early Intervention Services:

Nevada has in effect a statewide system of early intervention services which are, to the extent practicable, based on scientifically based research, and are available to all infants and toddlers with disabilities and their families, including--

1. Native American infants and toddlers with disabilities and their families residing on a reservation geographically located in Nevada; and
2. Infants and toddlers with disabilities who are homeless children and their families
3. Infants and toddlers with disabilities who are wards of the State

#### B1.2 (303.113) – Evaluation, Assessment and Nondiscrimination:

Early intervention programs in Nevada conduct:

1. Timely, comprehensive, multidisciplinary evaluation of the functioning (present levels of development) of each infant or toddler with a disability; and
2. A family-directed identification of the needs of the family of the infant or toddler to assist in the development of the infant or toddler;
  - (a) The evaluation and family-directed identification required in this section.

B1.3 (303.700 & 303.707-708): Lead Agency Role in Supervision, Monitoring, Funding, Interagency Coordination, and other responsibilities:

The Governor of the State of Nevada has appointed the DHHS as the lead agency (single line of authority). The DHHS IDEA Part C Office responsibilities include the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and early intervention providers receiving assistance under part C of IDEA. The specific components of Nevada's monitoring and oversight responsibilities are clarified in Subsection F of this policy manual. Activities used by the State to carry out Part C occur whether or not the programs or activities are administered by agencies, institutions, organizations and include:

1. Monitoring agencies, institutions, organizations and early intervention service providers used by Nevada to carry out part C of IDEA.
2. Enforcing any obligations imposed on agencies, institutions, organizations and early intervention service programs.
3. Providing technical assistance, if necessary, to agencies, institutions, organizations and EIS providers.
4. Correcting any noncompliance identified through monitoring as soon as possible, and in no case later than one year, after identifying noncompliance.
5. Conducting the activities indicated in Subsection F of this policy.
6. Identification and coordination of all available resources for early intervention services within Nevada, including those from Federal, State, local and private sources consistent with part C of IDEA.
7. Assigning fiscal responsibility in accordance with part C of IDEA.
8. Developing procedures in accordance with Part C (see Subsection F and related policies for 303.700-708) to ensure early intervention services are provided to infants and toddlers with disabilities and their families in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.
9. Resolving intra- and interagency disputes in accordance with part C of IDEA.
10. Entering into formal interagency agreements (e.g., MOUs, Directives, etc.), or other written methods of establishing financial responsibility, defining the financial responsibility of each agency for paying for early intervention services and procedures for resolving disputes, including all additional components necessary to ensure meaningful cooperation and coordination as set forth in Appendix III.

#### B1.4 (303.121) – Contracting/Arranging for Services:

Nevada has established procedures for contracting, or otherwise arranging for the provision of early intervention services. DHHS Divisions are responsible for ensuring that early intervention services are available to children and their families and adhere to State Personnel guidelines, including employment and advancement of qualified individuals with disabilities consistent with part C of IDEA. This is accomplished through State operated programs and contractual arrangements with diverse community early intervention providers. Contracts include:

1. Requirements that all providers in EIS meet State standards and be consistent with the provision of part C of IDEA; and
2. Are consistent with the Education Department General Administrative Regulations (EDGAR) in 34 CFR part 80.

Community early intervention providers must be approved by the IDEA Part C Office, are required to have a background check, and are prohibited from becoming an approved provider if a criminal record reveals a conviction for crimes and offenses specified within Chapter 100 of the Nevada Medicaid Services Manual, regardless of status as a Medicaid provider. In addition, community early intervention providers must adhere to applicable IDEA Part C Office policies, provider agreements, and State Purchasing contracting policies. Updated provider agreements must be kept on file in the IDEA Part C Office. Finally, an approved community early intervention provider also must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under part C of IDEA.

#### B1.5 (303.122) – Reimbursement Procedures:

The DHHS IDEA Part C Office has procedures for securing the timely reimbursement of funds used in accordance with subpart F of part C of IDEA which can be found in Section 2, Subsection B (fiscal control). Further information related to reimbursement can be found within the System of Payments policy in Appendix III and documents in this manual.

## Subsection C: Comprehensive System of Personnel Development

C1.1 (303.31, 303.118 & 303.119) – Comprehensive System of Personnel Development, Qualified Personnel and Personnel Standards:

C1.2 (303.118) – Comprehensive System of Personnel Development:

The DHHS IDEA Part C Office, in collaboration with the EIS and other appropriate state partners, is responsible for coordinating orientation, training and ongoing support to families, paraprofessionals, and early intervention service providers. Training is developed in collaboration with others across appropriate state and federal entities to ensure the training and technical assistance meets the needs of staff and includes a variety of early intervention topics. As part of the overall responsibility for developing and maintaining a comprehensive system of personnel development (CSPD), including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in Nevada, CSPD must include:

1. Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;
2. Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under this part; and
3. Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an EIS program under part C of IDEA to a preschool program under section 619 of IDEA, Head Start, Early Head Start, an elementary school program under part B of IDEA, or another appropriate program.

CSPD may also include:

1. Training personnel to work in rural areas;
2. Training personnel in the emotional and social development of young children;
3. Training personnel to support and empower families in participating fully in the development and implementation of the child's IFSP; and
4. Training personnel who provide services under this part using standards which are consistent across Nevada, including the Nevada Early Childhood Advisory Council (NECAC).

The DHHS IDEA Part C Office collaborates with the Nevada Division of Human Resource Management (DHRM), licensing boards and others to establish and maintain personnel qualification standards. Standards ensure there are personnel necessary to carry out the purposes of IDEA who are appropriately and adequately prepared and/or trained. Qualified

personnel employed as providers in early intervention are defined as persons who have met minimum qualifications as indicated by DHRM or the requirements of their professional licensing board. This includes any required certification, licensing, endorsement, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services. DHRM class specifications can be found at: [http://hr.nv.gov/Resources/Class\\_Specifications/](http://hr.nv.gov/Resources/Class_Specifications/). Efforts are made to recruit and hire appropriately and adequately trained personnel. Newly hired employees must meet minimum qualifications for their positions, including a review of equivalencies (related experience) and supervision requirements. Positions that are contracted, as well as community provider personnel, are evaluated in a similar manner.

**Below is a list of qualified early intervention service providers:**

<b>Position</b>	<b>DHRM Class Specification</b>	<b>Minimum Standards Summary (to be qualified early intervention staff) See DHRM class Specification and/or Licensing Board Requirements for complete description</b>	<b>Early Intervention Services Provided (see pages 39-43 of this policy for more detailed description)</b>
Clinical Program Manager (Supervisory position, not direct service provider)	10.121, 10.122 & 10.123	Master's degree in clinical psychology, clinical social work or related field & three years of post-Master's professional experience in a human service delivery setting, including one year of supervision.	Plan, organize, implement & direct human services programs, including supervision, by establishing goals, objectives, policies and procedures; monitoring & evaluating programs; developing & monitoring budgets.
Clinical Program Planner (Supervisory position, not direct service provider)	10.125	Master's degree in a social or health-related field, which included clinical intervention coursework, and two years of professional experience as a clinician in an appropriate setting.	Planning and analytical functions in support of programs, including quality improvement, program design, policy and procedure development, program evaluation, administration, strategic planning, and training.
Senior Physician (Pediatrician)	U9087 (Unclassified)	Licensed in Nevada as a physicians, with emphasis on development/pediatrics.	Provide medical services for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

<b>Position</b>	<b>DHRM Class Specification</b>	<b>Minimum Standards Summary (to be qualified early intervention staff) See DHRM class Specification and/or Licensing Board Requirements for complete description</b>	<b>Early Intervention Services Provided (see pages 39-43 of this policy for more detailed description)</b>
Nurse	10.354, 10.355, & 10.359	Current license to practice as a Registered Nurse when required by State law and experience.	Nursing services needed to allow a child to be able to participate in early intervention services.
Clinical Social Workers	10.144 & 10.151	Licensed by the Board of Examiners for Social Work when required by State law.	Participate in evaluations, assessments, therapy, service coordination, crisis intervention, and IFSP planning.
Speech Pathologist (SLP)	10.615 & 10.619	Required coursework and practicum for Master's degree in speech pathology (or related field), received a passing score on the National Examination for Speech Pathology & Audiology and possess a license when required by State law.	Provide speech and language services including evaluation and assessment, identification, diagnosis, treatment, and IFSP planning in early intervention services.
Psychological Developmental Counselor (PDC)	10.152 & 10.153	Master's degree in psychology, counseling, education & one year post-master's experience in providing standardized testing services, counseling & intervention.	Provide services including standardized evaluations, assessments, individual and group intervention, & counseling for families with children receiving early intervention services.
Audiologist	N/A	Licensed in Nevada as an Audiologist.	Provides testing and direct audiological services to early intervention population.
Nutritionist or Dietician	10.222, 10.226, & 10.235	Current Nevada licensure and/or certification requirements from applicable board.	Provide nutritional services and diet recommendations for families of infants and toddlers.
Developmental Specialist	10.133, 10.140, 10.147, & 10.149	Bachelor's degree in early childhood, special education, human growth & development, psychology, counseling, social work, or related field & one year of paraprofessional experience providing early intervention services	Develop and provide special instruction services as indicated by the IFSP, parent education, technical assistance to family members, other agencies and service providers regarding human growth and development.

<b>Position</b>	<b>DHRM Class Specification</b>	<b>Minimum Standards Summary (to be qualified early intervention staff) See DHRM class Specification and/or Licensing Board Requirements for complete description</b>	<b>Early Intervention Services Provided (see pages 39-43 of this policy for more detailed description)</b>
Occupational Therapist	10.609 & 10.618	Bachelor's degree in Occupational Therapy and completion of pediatric experience and possess a license when required by State law.	Provides occupational therapy services for infants and toddlers, evaluations, assessments, goals and IFSP implementation.
Certified Occupational Therapy Assistant (COTA)	N/A	Certification as a COTA by the National Board of Certification for Occupational Therapy and possess a license when required by State law.	Under direction supervision of a licensed OTR, COTAs assist in providing occupational therapy services to infants and toddlers.
Physical Therapist	10.612	Current licensure from the State of Nevada Board of Physical Therapy and one year of professional experience working with individuals with neurological or orthopedic abnormalities.	Provides physical therapy services to infants and toddlers, conduct evaluations, assessments and IFSP implementation.
Licensed Physical Therapist Assistant	N/A	Current licensure from the State of Nevada Board of Physical Therapy (time of application and throughout employment).	Under direction of Licensed PT, assist in developing & providing physical therapy services to infants and toddlers.
Behavioral Analysts	N/A	Bachelor's degree in behavioral analysis (ABA), with some positions needed BACB certification.	Provide behavioral analysis services to toddlers, functionally assessing the relationship between target behavior and the environment then utilizing ABA methods to change behavior.
Public Service Interns (PSIs)	7.653 & 7.665	Working toward Bachelor's or Master's degree in any related field noted in this table.	PSIs are working toward any field noted in this table. These personnel are under direct supervision with appropriate staff.
Mental Health Counselor	10.135, 10.137, 10.138 & 10.139	Master's degree in counseling, marriage & family therapy, social work, psychology or closely related academic field and 2 years of post-Master's professional mental health counseling experience.	Provide counseling and family training to families of infants and toddlers. Address psychosocial problems within the family unit.

<b>Position</b>	<b>DHRM Class Specification</b>	<b>Minimum Standards Summary (to be qualified early intervention staff) See DHRM class Specification and/or Licensing Board Requirements for complete description</b>	<b>Early Intervention Services Provided (see pages 39-43 of this policy for more detailed description)</b>
Orientation and Mobility Instructor	12.450 & 12.451	Bachelor's degree in rehabilitation of the blind, orientation and mobility, rehabilitation teaching or special education.	Provide specialized training to blind and visually impaired clients in orientation, mobility and the use of low vision aids.
Vision Specialists	N/A	Nevada licensure requirements by appropriate board.	Provide testing and vision services and supports to target population.
Family Services Specialists (including FSS Supervisors)	12.374, 12.376, 12.379, 12.327 & 12.328	Graduation from HS (or equivalent) and 1 year of paraprofessional experience performing social services case processing.	Assist families in achieving self-sufficiency; determine eligibility for public assistance/related programs; provide other social/support services as required.
Paraprofessionals (including family members )	N/A	Complete early intervention orientation and follow NRS guidelines when applicable..	Volunteers, family members and others who assist early intervention professionals as required (e.g., family support).
Interpreter of the Deaf and Interpreter Specialist	Certified Interpreter of the Deaf or language Interpreter	Interpreter of the Deaf or Hard of Hearing must be certified (see requirements at: dharc.org). Interpreter Specialist must be fluent in the language being interpreted and meet State guidelines.	Provide interpretation services for persons who are deaf or hard of hearing. Interpreter Specialist provides interpretation services for families with limited or no English language proficiency.
Behavioral Aides/Teacher's Assistant	5.166 & 5.167	Graduation from high school or equivalent education and 6 semester hours in the required area of specialization plus one year of work experience which included public contact and which is directly related to the area of specialization; <b>OR</b> an equivalent combination of education and experience.	Assist in accomplishing educational objectives by: providing instructional assistance on a one-to-one basis or in a specific setting, including individual interaction, practicing skills, etc.

The table above does not comprise exhaustive lists of the types of qualified personnel that may provide early intervention services. EIS providers may also be responsible for:

- Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;
- Training parents and others regarding the provision of those services;
- Participating in the multidisciplinary team's evaluation of a child and assessment of the child and family needs, and in the development of integrated goals and outcomes for the Individualized Family Service Plan (IFSP);
- Providing early intervention services as identified on the IFSP; and
- Service coordination if designated as the primary provider.

All Developmental Specialists will need to obtain and maintain an endorsement for Early Childhood Developmentally Delayed or an appropriate certification. The endorsement/certification must be completed within 3 years of entry into the Nevada Early Intervention Services System as a Developmental Specialist, which includes both state and community providers. In situations where there are non-continuous periods of employment by the Developmental Specialist, the time remaining in which to complete the endorsement/certification with the most current employer will be based on the time that remained to complete the endorsement/certification when they left their prior position.

Within the first year of employment, all Developmental Specialists must take at least one course toward the endorsement/certification. Information regarding the endorsement can be found on the Nevada Department of Education website at:

[http://teachers.nv.gov/Licenses/Exceptional\\_Pupils/](http://teachers.nv.gov/Licenses/Exceptional_Pupils/), under the Early Childhood Developmentally Delayed link. An appropriate certification is one which is approved at the discretion of the IDEA Part C Office through an approved course of comparable study, licensure and/or experience and is deemed to be equivalent to an Endorsement for Early Childhood Developmentally Delayed.

The IDEA Part C Office, in accordance with part C of IDEA 303.119, may make an exception to certain requirement to obtain/maintain an endorsement, license or appropriate certification. This exception is for early intervention programs which are making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities who live in geographically remote areas of the State where and when there is a shortage of appropriately qualified personnel. An exception may be made by submitting a request to the IDEA Part C Coordinator in writing. The Coordinator may approve the exception when a provider has documented satisfactory progress toward completing necessary education, training and experience to meet the standards for the class specification service type, and when such exception is not contrary to other regulatory requirements governing the occupation. All EIS providers shall implement practices consistent with guidelines established by the Nevada Early Childhood Advisory

(NECAC) and the Council for Exceptional Children (CEC) Division for Early Childhood (DEC) recommended practices.

C1.3 (303.105) – Efforts to Employ/Advance Individuals with Disabilities:

Nevada DHHS as the Lead Agency makes positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under part C of IDEA.

## Subsection D: Child Find and Public Awareness

### D1.1 (303.115, 303.300 & 303.302) – Comprehensive Child Find System:

Nevada has a comprehensive child find system which meets part C of IDEA requirements, and is consistent with part B, such that all infants/toddlers under the age of three years, and their families, with known or suspected delays, are identified, located, screened and evaluated for eligibility for early intervention. Referral policies and procedures include:

1. Public awareness program
2. Comprehensive child find
3. Referral policies and procedures
4. Post-referral policies/procedures that ensure compliance with timeline requirements
5. Screening
6. Evaluations and assessments
7. Development, review and implementation of IFSPs

Nevada has standards to appropriately identify infants and toddlers with disabilities for early intervention services which meet part C of IDEA requirements. DHHS ensures that:

1. All infants and toddlers with disabilities in the State who are eligible for early intervention services are identified, located and evaluated, including:
  - A. Native American infants and toddlers with disabilities residing on a reservation geographically located in Nevada;
  - B. Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and
  - C. Infants and toddlers with disabilities specifically referenced as at-risk of abuse and/or neglect (303.303b).
  - D. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
2. Nevada has an effective method developed and implemented to identify children who are in need of early intervention services. The DHHS, with the assistance of the ICC, ensures the Child Find system under this part:
  - A. Is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering various education, health, and social service programs relevant to part C of IDEA, including Native American tribes that receive payments, as appropriate;
  - B. And is also coordinated with:
    - a. Program authorized under part B of IDEA;
    - b. Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program;

- c. Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act;
- d. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000;
- e. Head Start Act (including Early Head Start program);
- f. Supplemental Security Income program under Title XVI of the Social Security Act;
- g. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA);
- h. Child care programs in the State;
- i. Programs that provide services under the Family Violence Prevention and Services Act – In Nevada this is the Domestic Violence Coalition;
- j. Early Hearing Detection and Intervention (EHDI) systems administered by the Centers for Disease Control (CDC); and
- k. Children’s Health Insurance Program (CHIP).

Nevada has taken steps to ensure:

- 1. There will not be unnecessary duplication of effort by the programs identified above; and
- 2. Nevada makes use of the resources available through each public agency and EIS provider in the State to implement the child find system in an effective manner.

D1.2 (303.204) – Referral Policies for infants and toddlers at-risk:

The Child Find System is the mechanism for referrals to early intervention in Nevada related to children under the age of three. Referrals to EIS should be timely and no more than seven days after identifying a possible need. Referral of specific at-risk infants and toddlers meets the following criteria:

- A. Is the subject of a substantiated case of child abuse or neglect; or
- B. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

D1.3 (303.116) – Public Awareness Program:

Nevada has a public awareness program that:

- 1. Focuses on the early identification of infants/toddlers with disabilities; and

2. Provides information to parents of infant/toddlers through primary referral sources in accordance with part C of IDEA.

#### D1.4 (303.301) – Public Awareness Program – Information for Parents:

In accordance with part C of IDEA, the EIS includes a public awareness program that:

1. Prepares information on the availability of early intervention services, and other services as described in part C of IDEA.
2. Disseminates to all primary referral sources (especially hospitals and physicians) the information to be given to parents of infants/toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning or developmental complications.
3. Adopts procedures for assisting the primary referral sources in disseminating information to parents of infants/toddlers with disabilities, including informing parents of toddlers with disabilities of the availability of services under 619 (part B) of IDEA not fewer than 90 days prior to the toddler's third birthday.

The information required to be prepared and disseminated under part C of IDEA includes:

1. A description of the availability of early intervention services in Nevada;
2. A description of the Child Find system and how to refer a child under the age of three for an evaluation or early intervention services; and
3. A central directory.

#### D1.5 (303.117) – Central Directory:

Nevada has a central directory known as Project Assist. It is accessible to the general public at <http://dhhs.nv.gov/Programs/IDEA/ProjectAssist> or a written copy can be requested by calling Project Assist at 1-800-522-0066. The central directory includes accurate, up-to-date information about:

1. Public and private early intervention services, resources and experts available in Nevada.
2. Professional and other groups, including parent support, and training information centers, such as those funded under part C of IDEA, who provide assistance to eligible infants/toddlers with disabilities and their families.
3. Research and demonstration projects being conducted in Nevada relating to infants/toddlers with disabilities.

## Subsection E: Interagency Coordinating Council

### E1.1 (303.600 & 303.601) – ICC Establishment & Composition:

The Nevada Interagency Coordinating Council (ICC) is appointed by the Governor and meets the requirements of part C of IDEA in order to receive financial assistance under Part C. The Governor ensures the membership of the ICC reasonably represents the population of Nevada. At least two members of the ICC serve as co-chairs—At least one a parent. The chair and co-chair are elected by majority vote of all ICC members. Any member of the ICC who is a representative of the lead agency (Department of Health and Human Services) may not serve as the chairperson of the ICC.

(1) The ICC must be composed as follows:

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

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

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

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

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

(5) At least one member must—

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

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

(6) At least one member must—

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

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

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

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

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

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

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

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

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

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

(ii) The Council may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE) or advocacy organizations. For example:

1. Nevada Governor's Council on Developmental Disabilities;
2. Nevada Parents Educating Parents (PEP); and
3. Nevada Disability Advocacy and Law Center (NDALC).

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

#### E1.2 (303.602) – ICC Meetings:

The ICC must meet, at a minimum, on a quarterly basis, and in such places as it determines necessary. Meetings must follow Nevada Open Meeting law as well as:

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

#### E1.3 (303.603) – Use of Funds by Council (ICC):

Subject to approval by the Governor, the ICC may use funds under part C of IDEA to:

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

Except as provided in this section, ICC members must serve without compensation from funds available under part C of IDEA. The IDEA Part C Office provides necessary professional, technical and support personnel to the ICC.

#### E1.4 (303.604 & 303.605) – ICC Functions & Authorized Activities:

The ICC advises and assists the lead agency in the performance of its responsibilities, including:

1. Identification of sources of fiscal and other support for services for early intervention service programs under part C of IDEA.
2. Assignment of financial responsibility to the appropriate agency.
3. Promotion of methods, including use of intra-agency and interagency agreements, for intra-agency and interagency collaboration regarding:
  - A. Child Find (303.115);
  - B. Monitoring as indicated in 303.700 through 303.708;
  - C. Financial responsibility and provision of early intervention services (303.202 & 303.511); and
  - D. Transition (303.209).
4. Preparation of application under part C of IDEA and amendments to those applications.

The ICC advises and assists the State Education Agency (SEA) and the lead agency regarding the transition of toddlers with disabilities to preschool and other appropriate services. The ICC collaborates with the IDEA Part C Office and other stakeholders to submit an annual report to the Governor and to the Secretary on the status of early intervention service programs for infants and toddlers with disabilities and their families under part C of IDEA operated within the State. The annual report is submitted to the Secretary on a date the Secretary establishes. Each annual report contains the information required by the Secretary for the year for which the report is made.

The ICC may carry out the following activities:

1. Advise and assist the lead agency and the SEA regarding the provision of appropriate services for children with disabilities from birth through age five.
2. Advise appropriate agencies in Nevada with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families regardless of whether at-risk infants and toddlers are eligible for early intervention services in Nevada.
3. Coordinate and collaborate with the State Early Childhood Advisory Council (ECAC) as described in section 642B(b)(1)(i) of the Head Start Act and other State interagency learning initiatives as appropriate (e.g., Inter-Tribal Council of Nevada: ITCN).

## Subsection F: Monitoring & Enforcement

### F1.1 (303.700) – State Monitoring & Enforcement:

The DHHS IDEA Part C Office is responsible to monitor the implementation of part C of IDEA using quantifiable and qualitative indicators, and reporting the State's performance of each early intervention program (e.g., Meets Requirements, Needs Assistance, Needs Intervention and Needs Substantial Intervention) to OSEP (303.703). As part of monitoring, Nevada uses quantifiable and qualitative indicators to adequately measure performance. The analysis serves as the basis for decision-making regarding:

1. Training/technical assistance needs
2. Resource allocation (possible withholding of funds, in whole or in part)
3. Personnel development/competency
4. Incentives and enforcement actions
5. Policy revision or clarification

The EIS programs are required to correct any areas of noncompliance in a timely fashion but no later than one year from identification. Programs that do not make timely corrections are subject to sanctions and other enforcement, including:

1. Accessing technical assistance
2. Imposing conditions on the use of part C funds by early intervention programs
3. Developing and implementing corrective action or improvement plans
4. Increasing reporting requirements
5. Accessing mandatory training
6. Withholding of funds, in whole or in part

The primary focus of Nevada's monitoring activities must be on--

1. Improving early intervention results and functional outcomes for all infants and toddlers with disabilities;
2. Ensuring the EIS programs meet the program requirements under part C of the IDEA, with a particular emphasis on those requirements most closely related to improving early intervention results for infants and toddlers with disabilities;
3. Using quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas herein identified, and the indicators established by the Secretary for the State performance plans;
4. Monitoring each EIS program in Nevada, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following areas:

- a. Early intervention services in natural environments.
  - b. General supervision, including Child Find, effective monitoring, the use of resolution sessions, mediation, and a system of transition services.
5. Ensuring when the IDEA Part C Office identifies noncompliance with the requirements of this part by EIS programs and providers, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance.

#### F1.2 (303.701) – State Performance Plans and Data Collection:

Nevada has in place a performance plan that meets the requirements in section 616 of IDEA; is approved by the Secretary; and includes an evaluation of Nevada's efforts to implement the requirements and purposes of part C of IDEA, a description of how Nevada improves implementation, and measurable and rigorous targets for the indicators established by the Secretary under 303.700(d). Nevada reviews its performance plan at least once every six years and submits any amendments to the Secretary.

Nevada collects valid and reliable information as needed to report annually to the Secretary on the indicators within its performance plans. Nothing in Part C of IDEA or these policies may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under part C of IDEA.

#### F1.3 (303.702) – State use of Targets & Reporting:

Nevada uses targets established in its performance plan and the priority areas to analyze the performance of each EIS program in implementing part C of IDEA. The DHHS IDEA Part C Office reports annually to the public on the performance of each EIS provider in Nevada on the targets in the State's performance plan as soon as practicable but no later than 120 days following the State's submission of its annual performance report to the Secretary.

Target information is available through public means, including posting on the DHHS IDEA Part C website, and distribution to the media and EIS providers. Nevada reports annually to the Secretary on the performance of the State under the performance plan. No information on performance that would result in the disclosure of personally identifiable information about individual children or where the available data are insufficient to yield statistically reliable information is reported.

## SECTION #2: FISCAL AND GRANT ACCOUNTABILITY

### Subsection A: Grant Requirements/Assurances

#### A2.1 (303.203) – Statewide System and Description of Services:

Nevada implements a statewide comprehensive system that provides appropriate and timely early intervention services to all eligible infants and toddlers with disabilities, birth through two, and their families. This includes traditionally underserved populations such as children and families that are homeless, families living in frontier rural areas and Native American families living on a reservation geographically located in the State. Families will have access to culturally competent service interventions based upon Scientifically Based Research (to the extent practicable) and available within their geographical areas.

The application submitted by the IDEA Part C Office includes a definition of developmental delay and a description of services to be provided under this part to infants and toddlers with disabilities and their families through the State's system. The policies and procedures developed by the IDEA Part C Office regarding the identification and coordination of all available resources and financial responsibility meet the requirements in 303.510 and 303.520 regarding the use of public insurance and benefits, private insurance, or family costs or fees, including the methods for implementing these requirements.

#### A2.2 (303.205 & 303.207) – Description of Funds & Availability of Resources:

Nevada's Part C application includes a description of the uses of part C of IDEA funds for the designated fiscal year or years covered by the application, with separate lead agency and Council budget, including:

1. Amount of funds retained by the lead agency for administration purposes.
2. Number of full-time equivalent administrative positions to be used to implement part C of IDEA, and the total amount of salaries (including benefits) for those positions, including those positions used by the lead agency for administrative purposes.
3. A description of the nature and scope of each major activity to be carried out (consistent with 303.501) and the approximate amount of funds to be spent for each activity, including equitable distribution of funds across the state.
4. A description of direct services provided to infants and toddlers with disabilities, and their families, with funds under this part (consistent with 303.501) and the approximate amount of funds under this part to be used for the provision of each direct service.
5. The name of other entities expected to receive funds, including:
  - a) The approximate amount of funds each agency will receive, and

b) A summary of the purposes for which the funds will be used.

#### A2.3 (303.208) – Public Participation – Policies & Procedures:

At least 60 days prior to being submitted to the U.S. Department of Education, Nevada's application for funds under part C of IDEA, including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application, is published in a manner that ensures circulation throughout the State for at least a 60-day period, with an opportunity for public comment on the application for at least 30 days during that period. The application includes a description of the policies and procedures used by Nevada, ensuring that, before adopting any new policy or procedure, including any revision to an existing policy or procedure, needed to comply with regulations within part C of IDEA, the IDEA Part C Office will:

1. Hold public hearings on the new policy or procedures, including any revision to an existing policy or procedures;
2. Provide notice of the hearing held, as indicated above, at least 30 days before the hearings were conducted to enable public participation; and
3. Provide an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the ICC, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with part C of IDEA.

#### A2.4 (303.210) – Coordination with Head Start & Early Head Start, Early Education & Child Care Programs:

The DHHS IDEA Part C Office promotes collaboration among Head Start and Early Head Start programs under the Head Start Act, early education and child care programs, and services under Part C of IDEA through a number of activities including:

1. DHHS staff must participate on the State Advisory Council on Early Childhood Education and Care established under the Head Start Act.
2. Participation by the IDEA Part C Office personnel, on workgroups such as: Expanding Opportunities for Inclusion, Technical Assistance Center for Social Emotional Intervention (TACSEI) training initiatives, Expanding Opportunities Leadership and Higher Education Development Workforce, Kindergarten Inventory of Development Statewide (KIDS) Project, etc. All workgroup activities assist the state to expand collaborative efforts to improve outcomes for children.
3. Participation of IDEA Part C Office personnel, in collaboration with the Nevada Department of Education (NDE), Division of Child and Family Services (DCFS) and others in the Nevada Early Childhood Advisory Council to focus on creating a system in which each of the partners participate in the development of a comprehensive

evidence-based program and learning standards, strong family engagement, childcare workforce registry, other staff development activities to ensure competency specific from to children birth to age five, and successful program improvement efforts.

#### A2.5 (303.212 & 303.220) – Additional Information & Assurances:

Nevada ensures equitable access to, and equitable participation in, the Part C statewide system as required by the General Education Provisions Act (GEPA) as noted in applicable policies. Nevada provides all required assurances the State has met the requirements specified in 34 CFR §§303.221 – 303.227 in order to receive funds allocated for the State under part C of the IDEA. These assurances are provided to the Secretary of the U.S. Department of Education in the State's annual application for Federal Part C funding and include, but are not limited to: Child Find, public awareness, coordination and partnerships, family support, training and technical assistance, and informal dispute resolution.

### Subsection B: Fiscal Control

#### B2.1 (303.223) – Control of Funds & Property:

The DHHS IDEA Part C Office maintains control of all funds received under section 643 of the IDEA and ensures the funds are used for the purposes outlined in laws and regulations. Funds are directly administered through the DHHS IDEA Part C Office, which holds title to any property acquired with those funds and ensures appropriate systems for tracking of property maintained. An adequate scheme is developed to identify all such property.

#### B2.2 (303.224) – Reports & Records:

The DHHS IDEA Part C Office ensures reports are developed and submitted in the form and containing the information required by the Secretary of the U.S. Department of Education. The DHHS IDEA Part C Office ensures appropriate records are kept and access is afforded to those records as the Secretary may find necessary to ensure:

1. Compliance with the requirements of this part,
2. The correctness and verification of reports, and
3. The proper disbursement of funds provided under this part.

#### B2.3 (303.225) – Prohibition against Supplanting; indirect costs:

Nevada ensures funds received by the State through the provisions of Section 643 of the IDEA:

1. Will not be commingled with State funds; and
2. Will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.

Maintenance of Effort: The total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under Nevada's EIS and their families be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. When needed, allowances are made for--

1. A decrease in the number of infants and toddlers who are eligible to receive early intervention services, and
2. Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

#### B2.4 (303.226) – Fiscal Control:

Nevada has fiscal control and fund accounting procedures in place regarding proper disbursement of, and accounting for, federal funds paid under Part C of IDEA.

#### B2.5 (303.500) – Use of Funds, Payor of Last Resort, and System of Payments:

Nevada ensures that Federal funds made available under section 643 of IDEA are expended in accordance with the provisions of Part C of IDEA. Nevada complies with the requirements in 303.510 and 303.511 as indicated in policies below. Payor of last resort includes:

1. Non-substitution of funds: Part C funds, with the exception stated below, are not utilized to provide early intervention services to an infant or toddler with a disability that the child is entitled to receive, or have payment made, from any other Federal, State, local or private source in accordance with part C of IDEA (303.520 and 303.521), including any medical program administered by the Department of Defense;
2. Interim payments – reimbursement: If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, Part C funds are utilized to pay the provider of services authorized under part C of the IDEA pending reimbursement from the agency or entity that has ultimate responsibility for the payment of the service, including health services; and
3. Non-reduction of benefits: Nothing in this policy may be construed to permit Nevada to reduce medical or other assistance for services available in the State and furnished to an infant or toddler with a disability when those services are included in the child's

Individual Family Service Plan (IFSP) adopted pursuant to Part C of IDEA or to alter eligibility under the following:

- Title V of the Social Security Act, 42 U.S.C. 701, et seq. (SSA) (relating to maternal and child health); and
- Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical assistance.

#### B2.6 (303.501) – Permissive Use of Funds by Lead Agency:

The DHHS IDEA Part C Office ensures all funds made available under section 643 of the IDEA are expended in accordance with all provisions of part C of IDEA and its ensuing regulations. Nevada utilizes funds received for activities or expenses that are reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities. IDEA part c funds may also be used for the following:

1. For direct early intervention services for infants and toddlers with disabilities and their families under this part not otherwise funded through other public or private sources.
2. To expand and improve services for infants and toddlers with disabilities and their families that are otherwise available; and

IDEA part C funds cannot be utilized to provide services for at-risk infants or toddlers in the State, or to extend the option for the provision of early intervention services for part C eligible children beyond the age of three.

#### B2.7 (303.511) – Methods to Ensure Provisions of & Financial Responsibility for Part C Services:

The DHHS IDEA Part C Office has in place methods for State interagency coordination. Methods include signed agreements and other methods of coordination which are in effect as signed by the Division Administrator, or designee, and/or otherwise determined by the Governor, or Governor's designee, and approved by the Secretary through the review and approval of the IDEA Part C Federal application, to ensure:

1. Provision of, and establishment of financial responsibility for, early intervention services provided under part C of IDEA; and
2. Such services are consistent with the requirements in section 635 of IDEA and the Nevada application under section 637 of IDEA, including the provision of such services during the pendency of any dispute between State agencies.

Each method includes procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given services, or disputes about other matters

related to the Nevada early intervention system. The procedures include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee, or DHHS IDEA Part C Office to make a final determination for interagency disputes, which determination is binding upon the agencies involved. The method:

1. Permits the 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
2. Includes the process Nevada 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.

If, during the DHHS IDEA Part C Office resolution process, the Governor, or Governor's designee, determines the assignment of financial responsibility under this section was inappropriately made:

1. The Governor, or Governor's designee, reassigns the financial responsibility to the appropriate agency; and
2. The DHHS IDEA Part C Office makes arrangements for reimbursement of any expenditure incurred by the agency originally assigned financial responsibility.

The methods adopted by Nevada under this section include a mechanism to ensure no services 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. Additionally, the methods are consistent with the written funding policies adopted by Nevada under this section and include any provisions Nevada has adopted under 303.520 regarding the use of insurance to pay for Part C services. Each method includes any additional components necessary to ensure effective cooperation and coordination among, and with the DHHS IDEA Part C Office general supervision, including monitoring of, providers and others involved in the EIS.

**B2.8 (303.520) – Policies Related to Use of Public Benefits/Insurance/Private Insurance to pay for Part C Services:**

All EIS providers must provide written notification to the child's parents prior to the utilization of the public benefits or insurance of the child or parent to support the provision of early intervention services under the requirements of part C of the IDEA. Written notification to the parent includes:

1. A statement that EIS in Nevada are to be provided at no cost to the family.

2. A statement that parental written consent must be obtained, consistent with part C of IDEA to use a child's or parent's public benefits or insurance to pay for Part C services if that use would:
  - Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;
  - Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
  - Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents;
  - Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures; and
  - If the parent does not provide consent, the EIS still provides Part C services on the IFSP to which the parent has provided consent.
3. A statement that parental written consent must be obtained consistent with part C of IDEA before an EIS provider discloses, for billing purposes, the child's personally identifiable information (PII) to the State public agency responsible for the administration of the State's public benefits or private insurance program.
4. A statement that the parent cannot be required to sign-up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and a parent consent must be obtained prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program.
5. A statement that, if the parent does not provide the consent, EIS still makes available those Part C services on the IFSP for which the parent has provided consent.
6. A statement that the parents have the right to withdraw their consent to disclosure of PII to the State public agency responsible for the administration of the State's public benefits or private insurance program at any time.
7. Medicaid requires use of private insurance as primary.

To use private insurance of a parent of an infant or toddler with a disability to pay for Part C services, parental consent must be obtained:

1. When the EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and
2. Each time consent for services is required under 34 CFR § 303.420(a) (3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

If a parent does not provide consent for the use of the child or family's public or private benefits, the lack of consent may not be used to delay or deny any early intervention services required under part C of IDEA to that child or family. Proceeds or funds received from reimbursement of public insurance or benefits or from private insurance are not treated as program income and are not considered either State or local funds (303.225). If the State

receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under IDEA of part C, those funds are considered neither State nor local funds. If the State spends funds from private insurance for services under this part, those funds are considered neither State nor local funds (303.225).

B2.9 (303.521) – System of Payments (SOP) & Fees: Please refer to the separate SOP policy document in Appendix III to this policy manual.

### **Subsection C: Other Fiscal Policies**

C2.1 (303.706) – Public Attention:

Whenever Nevada receives notice that the Secretary is proposing to take, or is taking, an enforcement action pursuant to 303.704, Nevada posts a public notice on the DHHS IDEA Part C website as well as posting public notices at each of the early intervention services sites, sending the information to newspapers across Nevada and informing Nevada's Parent Training and Information Center.

C2.2 (303.732 & 303.733) – State Allotments & Re-allotment of Funds:

Nevada submits an application each year for the full allotment indicated each fiscal year by the Secretary. If the Secretary makes reductions to funding, the grant application reflects that reduction. If additional funds become available, Nevada submits any required documentation necessary for receipt of additional funds. Nevada currently accepts the annual allotment of funds from the Secretary. If there are any future changes made by Nevada to receive allotted funds, Nevada notifies the Secretary.

## **SECTION #3: ELIGIBILITY, EVALUATION & ASSESSMENT**

### **Subsection A: Eligibility & Family Information**

#### A3.1 (303.5) – At-risk Infant or Toddler:

Nevada does not provide services to infants or toddlers who do not meet eligibility criteria. However, infants/toddlers under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided may be screened for eligibility to early intervention services and/or parents may request an evaluation of their child. Children at risk include an infant or toddler who is experiencing developmental delays because of biological or environmental factors that can be identified.

#### A3.2 (303.7) – Consent:

Consent means that--

1. The parent is fully informed of all information relevant to the activity for which consent is sought, in the parent's native language;
2. 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 the activity and lists the early intervention records (if any) that will be released and to whom they will be released; and
  - The parent understands the granting of consent is voluntary on the part of the parent and may be revoked at any time. If the parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).

#### A3.3 (303.21 & 303.111) – Developmental Delay:

Nevada has a rigorous definition of developmental delay used by the State in carrying out programs under part C of IDEA in order to appropriately identify infants and toddlers with disabilities who are in need of services. The definition must--

1. Describe the evaluation and assessment procedures, consistent with 303.321, that are used to measure a child's development; and
2. Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified below.

In Nevada, infants and toddlers birth through two years of age, are eligible as having a developmental delay if they meet the following criteria:

1. 50% delay of a child's chronological age in any one developmental area or 25% delay of child's chronological age in any two developmental areas, which includes:
  - Cognitive development;
  - Physical development, including hearing and vision;
  - Communication development;
  - Social or emotional development; or
  - Adaptive development.

A child can also be made eligible by a medical review of having one or more disorders on the State approved list of eligible conditions that would make an infant/toddler automatically eligible, such as chromosomal abnormalities: genetic or congenital disorders, sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, etc. A list of eligible conditions is on the DHHS IDEA Part C website or is available in writing by contacting the IDEA Part C Office. Also, a child may be made eligible by informed clinical opinion.

#### A3.4 (303.19) – Native American: Native American Tribe:

Any policies related to early intervention service provision will recognize that Native American refers to an individual who is a member of a Native American tribe in Nevada. This designation includes any Federal or State Native American tribe, band, Rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation, with applicable policies providing additional information about availability of early intervention services, including infants/toddlers who may live in/on one of the designated locations noted above.

#### A3.5 (303.25) – Native Language:

Nevada recognizes the term Native Language, when used with respect to an individual with limited English proficiency (LEP) as a term that 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; and
2. For evaluations and assessments conducted pursuant to part C of IDEA, the language normally used by the infant/toddler, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of

communication normally used by the individual (such as sign language, braille, or oral communication).

#### A3.6 (303.26) – Natural Environments:

A natural environment means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with part C of IDEA (303.126). In Nevada, to the maximum extent appropriate, all early intervention services are provided in a natural environment. In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP team, only when early intervention services cannot be achieved satisfactorily in a natural environment. This information is documented on the IFSP, including the specific justification for providing services in another setting and the timeframe for moving services back into a natural environment.

#### A3.7 (303.27) – Parent:

The term parent includes:

1. A biological or adoptive parent of a child.
2. A foster parent, unless State law, regulations, or contractual obligation 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 of Nevada 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.
5. A surrogate parent who has been appointed in accordance with part C of IDEA.

Except otherwise noted below, the biological or adoptive parent, when attempting to act as the parent under this policy and when more than one party is qualified to act as a parent, must be presumed to be the parent for purposes of this policy unless the biological or adoptive parent does not have legal authority to make educational or early intervention service decisions for the child. Written authorization is obtained from the parent(s) to designate another to act on behalf of their child, if needed.

If a judicial decree or order identifies a specific person or persons to act as the "parent" of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the "Parent" for purposes of part C of IDEA except if an EIS provider or a public agency provides any services to a child or any family

members of that child, that EIS provider or public agency may not act as the parent for that child.

#### A3.8 (303.37) – Ward of the State:

Nevada complies with part C of IDEA in that a ward of the State means a child who, as determined by the State where the child resides, is:

1. A foster child;
2. A ward of the State of Nevada; or
3. In the custody of a public child welfare entity.

A ward of the State does not include a foster child who has a foster parent who meets the definition of a parent.

#### A3.9 (303.303) – Referral Procedures:

EIS includes procedures for use by primary referral sources for referring a child under the age of three to an EIS program. The procedures require that a child is referred as soon as possible, but in no case more than seven days, after the child has been identified and meet the following requirements:

1. There is a statewide toll free number (1-800-522-0066) that connects to:
  - a. A regional system point of entry (SPOE) for all referrals including access to a language line service to provide translation when needed; and
  - b. A SPOE Service Coordinator who:
    - i. Responds timely to the referral (within 2 working days);
    - ii. Informs the parent about EIS and answers any questions they may have; and
    - iii. Provides the referral source with the EIS program point of contact to ensure timely screening and evaluation.
2. Referral of specific at-risk infants and toddlers. The procedures above require the referral of a child under the age of three who:
  - a. Is the subject of a substantiated case of child abuse or neglect; or
  - b. Is identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.
3. 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 (LEAs) and schools

- f. Public health facilities
- g. Other public health or social service programs
- h. Other clinics and health care providers
- i. Public agencies and staff in the child welfare systems, including protective services and foster care
- j. Homeless family shelters
- k. Domestic violence shelters and agencies

Information related to post-referral procedures and evaluation and assessment are included in related policies in this manual (Section 4).

#### A3.10 (303.420, 303.421) – Parent Consent & Ability to Decline Services:

The DHHS IDEA Part C Office ensures EIS providers obtain written parental consent before:

1. Administering screening procedures under 303.320 which are used to determine whether a child is suspected of having a disability.
2. All evaluations of a child and assessment of the child and family are conducted under 303.321.
3. Early intervention services are provided to the child in accordance with Part C.
4. Public benefits or insurance or private insurance is used if such consent is required in accordance with 303.520.
5. Disclosing personally identifiable information is consistent with 303.414.

If a parent does not give consent, Nevada makes reasonable efforts to ensure that the parent:

1. Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and
2. Understand that the child will not be able to receive the evaluation, assessment, or early intervention services unless consent is given.

Nevada does not use the due process hearing procedures to challenge a parent's refusal to provide any consent required related to any procedural safeguard policies. Parents of an infant or toddler with a disability can determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service at any time and may decline a service after first accepting it, without jeopardizing other early intervention services.

### A3.11 (303.123 & 421) – Prior Written Notice & Procedural Safeguards Notice:

Prior Written Notice (PWN) is provided to parents within a reasonable timeframe before any EIS providers, propose or refuse to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family. The notice informs parents about:

1. The action that is being proposed or refused, and
2. The reasons for taking the action.

All available IDEA of Part C procedural safeguards include a description of mediation, how to file a State complaint and a due process complaint in the provisions adopted, and any applicable timelines. Notices must be:

1. Written in language understandable to the general public; and
2. Written in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider takes steps to ensure that:

1. The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication.
2. The parent understands the notice.
3. There is written evidence the requirements of this policy have been met.

### A3.12 (303.422) – Surrogate Parents:

The DHHS IDEA Part C Office and any other public agency ensure the rights of a child are protected when:

1. No parent can be identified;
2. The DHHS IDEA Part C or other public agency, after reasonable efforts, cannot locate a parent; or
3. The child is a ward of the State under the laws of the State.

The DHHS IDEA Part C Office, and any other public agency, assigns an individual to act as a surrogate for the parent. This assignment process includes a method for:

1. Determining whether a child needs a surrogate parent, and
2. Assigning a surrogate parent to the child.

The DHHS IDEA Part C Office consults with any other public agency that has been assigned care of the child. In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the DHHS IDEA Part C Office, are appointed by the judge overseeing the infant or toddler's case provided the surrogate parent meets all requirements stated below. The DHHS IDEA Part C Office or any other public agency may select a surrogate parent. Public agencies ensure a person selected as a surrogate parent:

1. Is not an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child;
2. Has no personal or professional interest which conflicts with the interest of the child he or she represents; and
3. Has knowledge and skills to ensure adequate representation of the child.

A person who is otherwise qualified to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. The surrogate parent has the same rights as a parent for all purposes under this policy. The DHHS IDEA Part C Office makes reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines the child needs a surrogate parent.

## **SECTION #4: EARLY INTERVENTION SERVICES & SUPPORT**

### **Subsection A: Early Intervention Services - General**

#### A4.1 (303.11 & 303.12) – Early Intervention Service Program and Providers:

The DHHS IDEA Part C Office is responsible for a comprehensive statewide system of early intervention services for children ages birth through two years with developmental disabilities and their families. EIS includes Nevada Early Intervention Services and community providers who provide services in accordance with part C of IDEA for reporting under 303.700 – 303.702 and regardless of receiving any financial assistance through IDEA part C federal funds.

An EIS program and provider is responsible for:

1. Participating in the multi-disciplinary 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.
2. Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability.
3. Consulting with and training parents and others regarding the provision of early intervention services described in the IFSP of the infant or toddler with a disability.

#### A4.2 (303.13) – Early Intervention Services:

Early intervention services (EIS) are developmental, provided under public supervision, selected in collaboration with the parents of the infant/toddler and provided at no cost to the family. EIS are 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:

1. Physical development
2. Cognitive development
3. Communication development
4. Social or emotional development
5. Adaptive development

Services meet the standards of Nevada and of part C of IDEA and are provided by qualified personnel (see Section 1, Subsection C). To the maximum extent possible, all services are

provided in natural environments (e.g., fit into the daily routines/activities of the infant/toddler and family) and as described in the IFSP. Early intervention services are defined as follows:

(1) Assistive technology device and service are defined as follows:

(i) Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of an infant or toddler with a disability. The term does not include a medical device that is surgically implanted, including a cochlear implant, or the optimization (e.g., mapping), maintenance, or replacement of that device.

(ii) 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. The term includes—

(A) The evaluation of the needs of an infant or toddler with a disability, including a functional evaluation of the infant or toddler with a disability in the child's customary environment;

(B) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;

(C) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child's family; and

(F) 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.

(2) Audiology services include—

(i) Identification of children with auditory impairments, 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 an infant or toddler with a disability who has an auditory impairment;

(iv) Provision of auditory training, aural rehabilitation, speech reading and listening devices, orientation and training, and other services;

(v) Provision of services for prevention of hearing loss; and

(vi) Determination of the child's individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(3) Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development.

(4) Health services mean services necessary to enable an otherwise eligible child to benefit from the other early intervention services under this part during the time that the child is eligible to receive early intervention services.

(a) The term includes—

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) 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 early intervention services.

(c) The term does not include—

(1) Services that are—

(i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus);

(ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose); or

(iii) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

(A) 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 early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.

(B) 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;

(2) Devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition; and

(3) Medical-health services (such as immunizations and regular “well-baby” care) that are routinely recommended for all children.

(5) Medical services means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.

(6) 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) The provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(iii) The administration of medications, treatments, and regimens prescribed by a licensed physician.

(7) 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 this part, based on the findings in paragraph (b)(7)(i) of this section; and

(iii) Making referrals to appropriate community resources to carry out nutrition goals.

(8) 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.

(9) 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.

(10) 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.

(11) Service coordination services have the meaning given the term in B4.3.

(12) 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.

(13) 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 family context;

(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 early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; 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 early intervention services.

(14) Special instruction includes—

(i) The design of learning environments and activities that promote the infant's 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.

(15) 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.

(16) Transportation and related costs include 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 early intervention services.

(17) Vision services mean—

(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.

A4.3 (303.15) – Free Appropriate Public Education (FAPE):

Free Appropriate Public Education (FAPE) means special education and related services that:

1. Are provided at public expense, under public supervision and direction and without charge.
2. Meet the standards of Nevada's SEA including the requirements of part B of IDEA.
3. Include an appropriate preschool, or secondary school education in Nevada.
4. Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements of part B of IDEA.

A4.4 (303.346) – Responsibility & Accountability:

The DHHS IDEA Part C Office, as well as each EIS provider, who has a direct role in the provision of early intervention services, is responsible for making a good-faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. Any public agency or EIS provider is not held accountable if an eligible child does not achieve the growth projected on the child's IFSP.

A4.5 (303.23) – Local Education Agency (LEA):

A local educational agency, or LEA, is a public board of education or other public authority legally constituted within Nevada for either administrative control or direction, 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 Nevada, or for a combination of school districts or counties as are recognized by Nevada as an administrative agency for its public elementary schools or secondary schools.

Educational services agencies, and other public institutions or agencies, are agencies defined as a regional public multiservice agency authorized by Nevada law to develop, manage, and provide services or programs to LEAs. They are recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools in Nevada. This definition also includes 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 a LEA under Nevada law.

Entities can meet the definition of intermediate education unit or IEU in section 602(23) of the IDEA, as in affect prior to June 4, 1997. Under that definition, an intermediate educational unit or IEU means any public authority other than a LEA that:

1. Is under the general supervision of a Nevada educational agency
2. Is established by Nevada law for the purpose of providing FAPE on a regional basis
3. Provides special education and related services to children with disabilities in Nevada

Bureau of Indian Education (BIE) funded schools are elementary schools funded by the Bureau of Native American Education, and not subject to the jurisdiction of any SEA other than the Bureau of Native American Education, but only to the extent 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 smaller than the student population of the LEA receiving assistance under the IDEA with the small student population.

### **Subsection B: Individualized Family Service Plan**

B4.1 (303.20 & 114) – Individualized Family Service Plan (IFSP):

In Nevada, a written IFSP for providing early intervention services to an infant or toddler with a disability as specified by part C of IDEA, and the infant's/toddler's family, that:

1. Is based on the evaluation and assessment;
2. Includes the content applicable in part C of IDEA;
3. Is implemented as soon as possible once parental consent for the early intervention services in the IFSP is obtained consistent with part C of IDEA; and

4. Is developed in accordance with the IFSP procedures in accordance with part C of IDEA.

Nevada ensures, for each infant or toddler with a disability, and his or her family, an IFSP is developed and implemented that meets the requirements of part C of IDEA and includes Service Coordination.

#### B4.2 (303.24) – Multidisciplinary:

Multidisciplinary means the involvement of two or more separate disciplines or professions and with respect to:

1. Evaluation of the child and assessment of the child and family and may include one individual who is qualified in more than one discipline or profession (consistent with part c of IDEA and related policies).
2. The IFSP team includes the involvement of the parent(s) and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with part C of IDEA and related policies).

#### B4.3 (303.34) – Service Coordination Services:

Service coordination is carried out by a Developmental Specialist or other qualified early intervention service provider to assist and enable an infant/toddler with a disability, and the child's family, to receive the services and their rights, including procedural safeguards, as stipulated by part C of IDEA. Each infant/toddler with a disability, and the child's family, must be provided with one service coordinator who is responsible for:

1. Coordinating all services across agency lines including coordination of services on the IFSP being provided in the community.
2. Serving as the single point of contact in helping parents to obtain the services and assistance they need.

Service Coordination is an active, ongoing process that involves:

- Assisting parents of eligible children in gaining access to, and coordinating the provision of, the early intervention services required by part C of IDEA.
- Coordinating other services identified on the IFSP, as specified by 303.344 that are needed by, or are being provided to the infant/toddler with a disability and the child's family.

Specific Service Coordination services include:

- Assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants/toddlers with disabilities and their families.
- Coordinating the provision of early intervention services and other services (such as educational, social and medical services not provided for diagnostic or evaluative purposes) that the child and family needs or is being provided.
- Coordinating evaluations and assessments.
- Facilitating and participating in the development, review, and evaluation of the IFSP.
- Conducting referral and other activities to assist families in identifying available EIS providers.
- Coordinating, facilitating and monitoring the delivery of services required under part C of IDEA to ensure the services are provided in a timely manner.
- Conducting follow-up activities to determine the appropriate early intervention services are provided.
- Informing families of their rights and procedural safeguards under part C of IDEA.
- Coordinating the funding sources for services required under part C of IDEA.
- Facilitating the development of a transition plan from early intervention services to preschool services or other appropriate services.

The use of the term Service Coordinator by the DHHS IDEA Part C Office or EIS provider, for consistency, 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 the Use of Funds, Payor of Last Resort, System of Payments.

#### B4.4 (303.310) – Post-Referral Timeline – 45 days:

Except as indicated below, the initial evaluation and the initial assessments of the infant/toddler and family, and the initial IFSP meeting, both as stipulated in part C of IDEA, are completed within 45 days from the date EIS receives the referral of the infant/toddler. The 45-day timeline described above does not apply for any period when:

1. The infant/toddler or parent is unavailable to complete the initial evaluation, the initial assessments of the infant/toddler and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention record; or
2. The parent has not provided consent for initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the EIS provider to obtain parental consent.

The DHHS IDEA Part C Office ensures that, in the event the circumstances described above exist, the EIS provider:

1. Documents in the child's early intervention record the exceptional family circumstances or repeated attempts by the EIS provider to obtain parental consent.
2. Completes the initial evaluation, the initial assessments of the child and family, and the initial IFSP meeting as soon as practicable after the documented exceptional family circumstances described above no longer exists or parental consent is obtained for the initial evaluation and initial assessment of the child.
3. Develops and implements an interim IFSP, to the extent appropriate and consistent with part C of IDEA (emergency situations only).

The initial family assessment must be conducted within the 45-day timeline as indicated above if the parent concurs and even if other family members are unavailable.

#### B4.5 (303.320) – Screening Procedures:

EIS providers screen infants/toddlers under the age of three who have been referred to an EIS to determine whether they are suspected of having a disability which would make them eligible for early intervention services. The EIS provider, before screening the child:

1. Provides the parent notice of its intent to screen the child to identify whether the child is suspected of having a disability. Included in that notice is a description of the parent's right to request an evaluation (in compliance with part C of IDEA)
2. Obtains parental written consent

In compliance with part C of IDEA and State policy, if the parent consents to the screening and the screening or other available information indicate the child is:

1. Suspected of having a disability, after notice is provided and once parental written consent is obtained as required, an evaluation and assessment of the child must be conducted; or
2. Not suspected of having a disability, EIS provider ensures the notice of determination is provided to the parent, describing the parent's right to request an evaluation.

If the parent of the child requests and consents to an evaluation at any time during the screening process, evaluation of the child is conducted even if the EIS provider has determined the child is not suspected of having a disability. For purposes of this policy, and service provision, screening procedures:

1. Means activities under this section that are carried out by, or under the supervision of, EIS provider to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and
2. Includes the administration of appropriate instruments by personnel trained to administer those instruments.

For every child under the age of three who is referred to the EIS in Nevada, or screened as indicated in this policy, EIS programs are not required to:

1. Provide an evaluation of the child unless the child is suspected of having a disability or the parent requests an evaluation; or
2. Make early intervention services available to the child unless a determination is made that the child meets the definition of infant/toddler with a disability (in compliance with Part C of IDEA and state policy).

#### B4.6 (303.321) – Evaluation of the Child & Assessment of the Child and Family:

The DHHS IDEA Part C Office ensures that, subject to obtaining written parental consent in accordance with part C of IDEA, each child under the age of three who is referred for evaluation or early intervention services, including suspected of having a disability, receives:

1. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with part C of IDEA; and
2. If the child is determined eligible as an infant/toddler with a disability:
  - A multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet those needs.
  - A family-directed assessment of the resources, priorities and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant/toddler.

An evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of infant or toddler with a disability. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility. An assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility, including the assessment of the child and the assessment of the child's family. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) if those records indicate the child's level of functioning in one or more of the developmental areas constitutes a developmental delay or the child otherwise meets

the criteria for an infant or toddler with a disability. If the child's eligibility is established, the EIS provider conducts assessments of the child and family in accordance with this policy. Qualified personnel may use informed clinical opinion when conducting an evaluation and assessment of the child. When necessary, informed clinical opinion can be used to establish a child's eligibility when other instruments do not; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

All evaluation and assessments of the child and family are conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory. Unless clearly not feasible to do so, all evaluations and assessments of a child are conducted in the native language of the child. Unless clearly not feasible to do so, family assessments are conducted in the native language of the family members being assessed.

Procedure for evaluation of the child – In conducting an evaluation, no single procedure may be used as the sole criterion for determining a child's eligibility and includes:

1. Administering an evaluation instrument
2. Taking the child's history (including interviewing the parent)
3. Identifying the child's level of functioning in each of the developmental areas
4. 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
5. Reviewing medical, educational, or other records

Procedure for assessment of the child and family – An assessment of each infant/toddler with a disability is conducted by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child includes:

1. A review of the results of the evaluation conducted as indicated above,
2. Personal observations of the child, and
3. The identification of the child's needs in each of the developmental areas pursuant to part C of IDEA.

A family-directed assessment must 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/toddler with a disability. The assessment:

1. Is voluntary on the part of each family members participating in the assessment,

2. Is 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
3. Includes the family's description of its resources, priorities, and concerns related to enhancing the child's development.

**B4.7 (303.322) – Determination that the Child is Not Eligible:**

If, in accordance with part C of IDEA the EIS program, based on the evaluation conducted, determines that a child is not eligible, EIS program personnel provide the parent with prior written notice and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms such as requesting a due process hearing or mediation or file a State complaint (Section #5).

**B4.8 (303.340 & 342) – IFSP & Procedures for IFSP Development, Review & Evaluation:**

In Nevada, an IFSP is developed, reviewed and implemented for each infant or toddler with a disability by a multidisciplinary team which includes the parents and:

1. Is consistent with the definition of that term (in accordance with part C of IDEA,
2. Meets the requirements in other policies in this section, and
3. Is not a complete document until the parent signs.

Once a child is referred to a provider within the EIS , and deemed eligible for early intervention services, meeting arrangements are made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure they will be able to attend. The initial IFSP must be completed within 45 days. The contents of the IFSP must be fully explained to the parents. A review of the IFSP for a child, and the child's family, is conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine:

1. The degree to which progress toward achieving the results of outcomes identified in the IFSP is being made,
2. Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary, and
3. Updated present levels of development at annual review

The review is carried out by a meeting or other means acceptable to the parents or other participants. A meeting is conducted on an annual basis to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted are used in determining the early intervention services that are needed and will be provided. IFSP meetings must be conducted:

1. In settings and at times that are convenient for the family, 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.

Meeting arrangements are made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure parents to be able to attend and are full participants in this process. The contents of the IFSP are fully explained to the parents and informed written consent is obtained prior to the provision of early intervention services described in the IFSP. Each early intervention service is provided as soon as possible after the parent provides consent for that service.

#### B4.9 (303.343) – IFSP Team Meeting & Periodic Review:

Each initial meeting and each annual IFSP team meeting to evaluate the IFSP includes the following participants:

1. The parent or parents of the child
2. Other family members, as requested by the parents, if feasible to do so
3. An advocate or person outside of the family, if the parent requests that person to participate
4. The EI service coordinator responsible for implementing the IFSP
5. A person or persons directly involved in conducting the evaluations and assessments
6. As appropriate, persons who will be providing early intervention services to the child or family

If a person listed above is unable to attend a meeting, arrangements are made for the person's involvement through other means, including one of the following:

1. Participating in a telephone conference
2. Having a knowledgeable authorized representative attend the meeting
3. Making pertinent records available at the meeting

Each periodic review must provide for the participation of persons noted above. If conditions warrant, provisions must be made for the participation of other representatives identified above.

#### B4.10 (303.344) – Content of an IFSP:

The IFSP includes a statement of the present levels of physical development (including vision, hearing and health status), cognitive development, communication development, social or emotional development and adaptive development based on the information from

the child's evaluation and assessments. With the concurrence of the family, the IFSP includes 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. The IFSP includes a statement of the measurable results or measurable outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine:

1. The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
2. Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.

The IFSP includes a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified, including:

1. The length, duration, frequency, intensity, and method of delivering the early intervention services.
2. A statement that each early intervention service is provided in the natural environment for that child and consistent with part C of IDEA, or a justification as to why an early intervention service will not be provided in the natural environment and a plan for moving the service back into the natural environment.

The determination of the appropriate setting for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention services in the natural environment for that infant or toddler with a disability, is:

1. Made by the IFSP team (which includes the parent other team members),
2. Consistent with part C of IDEA,
3. Based on the child's outcomes identified by the IFSP team (indicated above)
  - a. The location of the early intervention services
  - b. The payment arrangements
4. Includes information, as stated above, regarding:
  - a. Frequency and intensity: days or sessions that services will be provided in an individual or group setting
  - b. Method: how a service is provided
  - c. Length: length of time the service is provided during each session of that service (such as an hour or other specified time period)
  - d. Duration: projecting out to when a service will no longer be provided (when the child is expected to meet outcomes on IFSP)

As indicated above, location means the actual place(s) where service is provided. A justification must be documented in the child's file, including a plan to move the services back into the natural environment. Additionally, the IFSP must (to the extent appropriate):

1. Identify medical and other services the child or family needs or is receiving through other sources, but that are neither required nor funded under Part C, and
2. If those services are not currently being provided, include a description of the steps the service coordinator or family may take to assist the child and family in securing those other services.

The IFSP must also include information about dates and duration as follows:

1. The projected date for the initiation of each early intervention service, which must be as soon as possible after the parent consents to the service but, in no case later than 30 days after the parent provides written consent or as specified by the IFSP, and
2. The anticipated duration of each service (as stated above).

The IFSP must also include the name of the service coordinator 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 part C of IDEA), who will be responsible for implementing the early intervention services identified in a child's IFSP, including transition services, and coordination with other agencies and persons. In meeting the requirements noted above, the term "profession" includes "service coordination." The IFSP includes the steps and services to be taken to support the smooth transition of the child, in accordance with part C of IDEA from EIS to:

1. Preschool services under part B of IDEA, to the extent that those services are appropriate, and
2. Other appropriate services.

The steps required must include:

1. Discussion 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 the child find information about the child has been transmitted to the LEA or other relevant agency in accordance with part C of IDEA and, with parental consent, transmission of additional information needed by the LEA to ensure continuity of services from EIS to the Part B 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 IDEA, and

4. Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

#### A4.11 (303.209) – Transition to Preschool & Other Programs:

Nevada ensures a smooth transition for toddlers with disabilities under the age of three and their families. The transition occurs from the point of receiving early intervention services to:

1. Preschool or other appropriate services for infants and toddlers with disabilities; or
2. Exiting the program for infants and toddlers with disabilities.

To ensure a seamless transition between service entities, the IDEA Part C Office has a Memorandum of Understanding (MOU) with the local SEA to ensure a seamless transition from Part C to Part B by addressing how the DHHS IDEA Part C Office and the SEA meet federal IDEA requirements, including notification of the SEA, not fewer than 90 days before the third birthday, of the toddler with a disability who may be eligible for preschool services. The MOU is reviewed on a biennial basis to determine ongoing compliance with parts B and C of IDEA requirements (A copy of the Cooperative Agreement is available upon written request to the IDEA Part C Office).

#### B4.12 (303.345) – Interim IFSP:

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:

1. Parental written consent is obtained.
2. An interim IFSP is developed, which includes:
  - A. The name of the service coordinator who will be responsible for implementing the interim IFSP and coordinating with other agencies and persons, and
  - B. The early intervention services that have been determined to be needed immediately by the child and the child's family.

The evaluation and assessments are completed within the 45-day timeline.

## **SECTION #5: PROCEDURAL SAFEGUARDS**

### **Subsection A: Confidentiality and Access to Records**

A5.1 (303.400) – General Responsibility of Lead Agency for Procedural Safeguards:

The DHHS IDEA Part C Office establishes/adopts procedural safeguards that meet part C of IDEA requirements, including the provisions on confidentiality, parental consent and notice, surrogate parents, and dispute resolution as indicated in other policies in this manual.

A5.2 (303.401 & 402) – Confidentiality & Opportunity to Examine Records:

The DHHS IDEA Part C Office ensures 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.

As required by part C of IDEA, Nevada must ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by participating agencies, including state (lead agency) and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA – 20 U.S.C. 1232g and 34 CFR part 99).

Nevada procedures are as follows:

1. Participating agencies, including State and community partner entities, comply with the DHHS IDEA Part C Office confidentiality procedures noted in this policy manual; and
2. The parents of infants/toddler who are referred to, or receive services under part C of IDEA are afforded the opportunity to inspect and review all early intervention records about the infant/toddler, including the family, that are collected, maintained, or used under part C of IDEA, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of the IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under part C of IDEA.

Confidentiality applies to the personally identifiable information of an infant/toddler and their family that:

1. Is contained in early intervention records collected, used, or maintained under part C of IDEA by the state or community providers; and

2. Applies from the point in time when the infant/toddler is referred for early intervention services 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.

The DHHS IDEA Part C Office discloses to the SEA and LEA the following personally identifiable information (transition notification requirements):

1. A child's name,
2. A child's date of birth, and
3. Where the child resides, and
4. Parent contact information, including parent's names, addresses and telephone numbers.

The information described above is needed to enable Nevada (Part B and C) to identify all children potentially eligible for Part B services. Nevada does not have an Opt out policy for notification to the LEA and SEA

#### A5.3 (303.403) – Definitions (related to confidentiality):

In addition to the definition of personally identifiable information and disclosure, the following definitions relate to confidentiality/privacy:

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. Early intervention records means all records regarding a child (infant/toddler) that are required to be collected, maintained, or used under part C of IDEA and retained for 23 years after the end of services; and
3. Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement part C of IDEA regulations with respect to a particular child. A participating agency includes state and community partner providers and any individual or entity that provides early intervention, including service coordination, evaluations and assessments, and other early intervention services otherwise noted in this policy manual, but does not include primary referral sources, or public agencies (e.g., State Medicaid, CHIP, etc.) or private entities that act solely as funding sources for early intervention services.

#### A5.4 (303.404) – Notice to Parents:

EIS providers must give notice when a child is referred under part C of IDEA that is adequate to fully inform them about confidentiality, including:

1. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods Nevada uses in gathering 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 participating agencies must follow regarding storage, disclosure to their 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 part C of IDEA regarding confidentiality.
4. A description of the extent the notice is provided in the native languages of the various population groups in Nevada.

#### A5.5 (303.405) – Access Rights:

Each EIS provider (State or community partner) must permit parents to inspect records and review any early intervention records relating to their child(ren) collected, maintained, or used by the EIS provider. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to other policies in this policy manual, and in no case more than 10 days after the request has been made. The right to inspect and review early intervention records includes:

1. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention record.
2. The right to request 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.
3. The right to have a representative of the parent inspect and review the early intervention records.

An agency may presume the parent has authority to inspect and review records relating to his/her child unless the agency has been provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, and divorce.

#### A5.6 (303.406) – Records of Access:

Each participating agency must 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 and employees 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 record.

#### A5.7 (303.407) – Records on More than one Child:

If any early intervention record includes information on more than one child, the parents 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.

#### A5.8 (303.408) – List of Types & Locations of Information

Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency – including files electronically maintained in a database.

#### A5.9 (303.409) – Fees for Records:

In accordance with part C of IDEA, each participating agency may charge a fee for copies of records if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided below. A participating agency may **not** charge a fee to search for or to retrieve information. A participating agency must provide, at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and the IFSP as soon as possible after each IFSP meeting.

#### A5.10 (303.410) – Amendment of Records at Parent's Request

A parent who believes that information in the early intervention records collected, maintained, or used under part C of IDEA is inaccurate, misleading, or violates the privacy or other rights of the child or parent, may request that the participating agency that maintains the information amend the information. The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parents of the right to a hearing under part C of IDEA.

#### A5.11 (303.411) – Opportunity for Hearing:

The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing provided such hearing procedures meet the requirements indicated below.

#### A5.12 (303.412 & 303.413) – Result of Hearing and Hearing Procedures:

A hearing held under 303.411 must be conducted in accordance with 34 CFR 99.22. If, as a result of the hearing, the participating agency decides the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it amends the information accordingly and informs the parent in writing. If, as a result of the hearing, the agency decides the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parents, it must inform the parents of the right to place in the early intervention 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. Any explanation placed in the early intervention records of the child under this section must:

- Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency.
- If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.

#### A5.13 (303.414) – Consent Prior to Disclosure or Use:

Except as provided below, prior parental consent must be obtained before personally identifiable information is:

1. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information noted in this policy.
2. Used for any purpose other than meeting a requirement of this policy.

The DHHS IDEA Part C Office or other participating agencies may not disclose personally identifiable information to any party except participating agencies that are part of the State's early intervention system without parental consent unless authorized to do so under CFR 99.30 – 99.39 and applicable part C of IDEA regulations. In applying the provisions in 34 CFR part 99 to Part C means:

- (i) 34 CFR 99.30 means 303.414(a)
- (ii) Education records means early intervention records
- (iii) Educational means early intervention
- (iv) Education agency or institution means the participating agency under Part C
- (v) School officials and officials of another school or school systems means qualified personnel or service coordinators

#### A5.14 (303.415) – Safeguards:

Each participating agency protects the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages. One official at each participating agency assumes responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information receive training and instruction regarding Nevada’s policies and procedures related to personally identifiable information. Each participating agency must 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.

#### A5.15 (303.416) – Destruction of Information:

The participating agency informs parents when personally identifiable information collected, maintained, or used is no longer needed to provide services to the child under part C of IDEA, as well as GEPA provisions in 20 U.S.C. 1232F, and EDGAR, 34 CFR parts 76 and 80. Subject to these regulations, the information must 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 service coordinator(s) and early intervention provider(s), and exit data (including year and age upon exit, and any programs entered into upon exit) is maintained without time limitation.

### **Subsection B: Due Process/Complaints**

#### B5.1 (303.417) – Enforcement:

The DHHS IDEA Part C Office has policies and procedures, including sanctions and the right to file a complaint under part C of IDEA, which Nevada uses to ensure its policies and procedures, are consistent with part C of IDEA, are followed and the requirements of part C of IDEA are met. In addition, The DHHS IDEA Part C Office follows part B of IDEA for due process complaints.

#### B5.2 (303.430) – State Dispute Resolution Options:

Nevada has written procedures for the timely administrative resolution of complaints through mediation, statewide complaint procedures, and due process hearing procedures as described below. The DHHS IDEA Part C Office makes available to parties of disputes involving any matter under part C of IDEA the opportunity for mediation that meets the requirements noted below.

The DHHS IDEA Part C Office has written complaint procedures to resolve complaints with respect to a particular child regarding any matter. During the pendency of any proceeding involving a due process complaint, unless the State and parents of an infant/toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parent. If the due process complaint involves an application for initial services under part C of IDEA, the child must receive those services that are not in dispute.

### B5.3 (303.431) – Mediation:

Parties to disputes involving any matter related to the implementation of early intervention services, in accordance with IDEA, including matters arising prior to the filing of a due process complaint, have the opportunity to resolve disputes through a mediation process. The DHHS IDEA Part C Office has established and implemented procedures to allow parties of 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. The procedures ensure the mediation process:

1. Is voluntary on the part of the parties,
2. 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
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

Any party involved in a dispute (i.e., parent, service provider) may submit a written request for mediation to Nevada's DHHS IDEA Part C Office. Sample templates for submitting a mediation request are included in the Parent Handbook, are located online and are available by contacting the DHHS IDEA Part C Office. The DHHS IDEA Part C Office maintains a list of trained individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. The DHHS IDEA Part C Office selects mediators on a rotational basis.

The DHHS IDEA Part C Office bears the cost of the mediation process, including the costs of meetings described below. Each session in the mediation process is scheduled in a timely manner and held in a location convenient to the parties in the dispute. The mediation session may not include an attorney of the lead agency or the early intervention service provider program unless the parent is accompanied by an attorney. If attorneys are included in the mediation process, each individual party is responsible for the cost of that representation.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth the resolution and that:

1. States 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
2. Is signed by both the parent and a representative of EIS program who has the authority to bind such agency.

A written, signed mediation agreement under this policy is enforceable in any Nevada court of competent jurisdiction or in a district court of the U.S. Discussions that occur during the mediation process are confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or Nevada court. Any individual who serves as a mediator under part C of IDEA:

1. May not be an employee of the DHHS IDEA Part C Office or an EIS provider that is involved in the provision of early intervention services or other services to the child, and
2. Must not have a personal or professional interest that conflicts with the person's objectivity.

A person who otherwise qualifies as a mediator is not an employee of the DHHS IDEA Part C Office or an early intervention provider solely because he or she is paid by the agency or provider to serve as a mediator. The DHHS IDEA Part C Office has established procedures to offer to parents and early intervention providers that choose not to use the mediation process, an opportunity to meet, as a time and location convenient to the parents, with a disinterested party:

1. Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in Nevada under 671 or 672 of IDEA, and
2. Who explains the benefits of, and encourages the use of, the mediation process to the parents.

B5.4 (303.432, 303.433 & 303.434) – State Complaint Procedures:

The DHHS IDEA Part C Office has written procedures for:

1. Resolving any complaint, including a complaint filed by an organization or individual from another state, that meets part C of IDEA requirements.
2. Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, and other appropriate entities, the Nevada Procedures under part C of IDEA as included in this policy manual.

In resolving a complaint in which the DHHS IDEA Part C Office has found a failure to provide appropriate services, the DHHS IDEA Part C Office, pursuant to its general supervisory policies addresses:

1. The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant/toddler with a disability who is the subject of the complaint and the infant's and/or toddler's family, such as compensatory services or monetary reimbursement; and
2. Appropriate future provision of services for all infants/toddlers with disabilities and their families.

The DHHS IDEA Part C Office includes in its complaint procedures a time limit of 60 days after a complaint is filed to:

1. Carry out an independent on-site investigation, if the DHHS IDEA Part C Office determines that an investigation is necessary.
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
3. Provide the public agency, or early intervention provider with an opportunity to respond to the complaint, including, at a minimum:
  - o At the discretion of the DHHS IDEA Part C Office, a proposal to resolve the complaint; and
  - o An opportunity for a parent who has filed a complaint and the public agency, or early intervention provider to voluntarily engage in mediation, consistent with part C of IDEA.
4. Review all relevant information and make an independent determination as to whether the public agency or early intervention provider is violating a requirement of part C of IDEA, including implementation of the regulations.
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
  - o Findings of fact and conclusions, and
  - o The reasons for the DHHS IDEA Part C Office decision.

The DHHS IDEA Part C Office procedures described above:

1. Permit an extension of the time limit only if:
  - o Exceptional circumstances exist with respect to a particular complaint; or
  - o The parent, or individual organization, and the public agency or early intervention provider involved agree to extend the time to engage in mediation.
2. Include procedures for effective implementation of the DHHS IDEA Part C Office's final decision, if needed, including:
  - o Technical assistance activities

- Negotiations
- Corrective actions to achieve compliance

If a written complaint is received that is also the subject of a due process hearing as noted in other policies, or contains multiple issues or which one or more are part of that hearing, the DHHS IDEA Part C Office can set aside any part of the complaint being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint not a part of the due process hearing is resolved using the time limit and procedures described in this policy.

If any issues are raised in a complaint which has previously been decided in a due process hearing involving the same parties:

1. The due process hearing decision is binding on that issue; and
2. The DHHS IDEA Part C Office informs the complainant to that effect.

A complaint alleging the public agency, or early intervention provider's failure to implement a due process hearing decision must be resolved by the DHHS IDEA Part C Office. An organization or individual may file a signed written complaint under the procedures described in this policy. The complaint includes:

1. A statement that the public agency or early intervention provider has violated a part C of IDEA requirement.
2. The facts on which the statement is based.
3. The signature and contact information for the complainant; and
4. If alleging violations with respect to a specific child:
  - The name and address of the residence of the child,
  - The name of the EIS service provider to the child,
  - A description of the nature of the problem of the child, including facts relating to the problem; and
  - A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed,

The complaint must allege a violation occurred not more than one year prior to the date the complaint is received in accordance with part C of IDEA. The party filing the complaint must forward a copy of the complaint to the public agency or early intervention provider serving the child at the same time the party files the complaint with the DHHS IDEA Part C Office.

#### B5.5 (303.440 & 441) – Due Process Complaint Process:

In Nevada a parent, early intervention provider, or the lead agency may file a due process complaint on any of the matters relating to the identification, evaluation, or placement of a

child, or the provision of early intervention services to the infant or toddler with a disability and his/her family under part C of IDEA. The due process complaint must allege a violation occurred not more than one year before the date the parent or early intervention provider knew, or should have known, about the alleged action that forms the basis of the due process complaint. The DHHS IDEA Part C Office informs parents of any free or low-cost legal and other relevant services available in the area if:

1. The parent requests the information; or
2. The parent or early intervention provider files a due process complaint.

The DHHS IDEA Part C Office has adopted a 45-day timeline for the resolution of due process complaints and follows Part B Due Process Complaint procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential). As with mediation, parties to disputes involving any matter related to the implementation of early intervention services, in accordance with IDEA, including matters arising prior to filing a due process complaint, have the opportunity to resolve disputes through a mediation process at any time.

The party filing a due process complaint must forward a copy of the due process complaint to the DHHS IDEA Part C Office. The due process complaint must include:

1. Name and address of residence of child and early intervention provider serving the child.
2. In the case of a homeless child, available contact information for the child and the name of the early intervention provider serving the child.
3. A description of the nature of the problem of the child relating to the proposed or refused initiation or change including facts relating to the problem.
4. A proposed resolution of the problem to the extent known and available to the party at the time.

A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of this policy. Any hearing may not include an attorney of the lead agency or the early intervention service provider program unless the parent is accompanied by an attorney. If attorneys are included in the due process complaint process, each individual party is responsible for the cost of that representation.

The due process complaint must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of the receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements of this policy. Within five days of receipt of notification, the hearing officer must make a determination on the face of the due process

complaint of whether the due process complaint meets the requirements indicated in this policy and must immediately notify the parties in writing of that determination. A party may amend its due process complaint only if:

1. The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held; or
2. The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.

If a party files an amended due process complaint, the timelines for the resolution meeting and the time period to resolve begin again with the filing of the amended due process complaint. If the DHHS IDEA Part C Office has not sent a prior written notice in accordance with part B of IDEA to the parent regarding the subject matter contained in the parent's due process complaint, the DHHS IDEA Part c Office or early intervention provider must, within 10 days of receiving the due process complaint, send to the parent a response that includes:

1. An explanation of why the DHHS IDEA Part C Office or early intervention provider proposed or refused to take the action raised in the due process complaint.
2. A description of other options the IFSP team considered and the reasons why those options were rejected.
3. A description of each evaluation procedure, assessment, record, or report the DHHS IDEA Part C Office or early intervention provider used as the basis for the proposed or refused action.
4. A description of the other factors that are relevant to the agency's or early intervention provider's proposed or refused action.

A response by The DHHS IDEA Part C Office, in accordance with this policy, does not preclude the DHHS IDEA Part C Office from asserting the parent's due process complaint was insufficient, where appropriate. Except as otherwise noted in this policy, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

A parent, early intervention provider, or the DHHS IDEA Part C Office may file a due process complaint on any of the matters described in this policy manual relating to the identification, evaluation, or placement of a child, or the provision of early intervention services to the infant or toddler with a disability and his or her family under part C of IDEA. The due process complaint must allege a violation occurred not more than two years before the date the parent or early intervention provider knew, or should have known, about the alleged action that forms the basis of the due process complaint.

#### B5.6 (303.442) – Resolution Process:

Within 15 days of receiving notice of the parent’s due process complaint, and prior to the initiation of a due process hearing, as stipulated in the policy above, the DHHS IDEA Part C Office convenes a meeting with the parent and the relevant member or members of the IFSP team who have specific knowledge of the facts identified in the due process complaint that:

1. Includes a representative of the DHHS IDEA Part C Office who has decision-making authority on behalf of that agency; and
2. May not include an attorney unless the parent is accompanied by an attorney.

The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so the DHHS IDEA Part C Office has the opportunity to resolve the dispute that is the basis for the due process complaint. The meeting need not be held if:

1. The parent and the DHHS IDEA Part C Office agree in writing to waive the meeting; or
2. The parent and DHHS IDEA Part C Office agree to use the mediation process.

The parent and the DHHS IDEA Part C Office must determine the relevant members of the IFSP team to attend the meeting. If the DHHS IDEA Part C Office has not resolved the due process complaint to the satisfaction of the parties within 30 days of the receipt of the due process complaint, the due process hearing may occur. The timeline for issuing a final decision begins at the expiration of the 45-day period as indicated in this policy.

Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding this policy, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. If the DHHS IDEA Part C Office is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, including documenting its efforts, the DHHS IDEA Part C Office may, at the conclusion of the 45-day period, request the hearing officer dismiss the parent’s due process complaint.

If the DHHS IDEA Part C Office fails to hold the resolution meeting specified in this policy within 15 days of receiving notice of a parent’s due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline. The 45-day timeline adopted by the DHHS IDEA Part C Office for the due process hearing starts the day after one of the following events:

1. Both parties agree in writing to waive the resolution meeting,

2. After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible, or
3. If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or the DHHS IDEA Part C Office withdraws from the mediation process.

If a resolution to the dispute is reached at the meeting described above, the parties must execute a legally binding agreement that is:

1. Signed by both the parent and a representative of the DHHS IDEA Part C Office who has the authority to bind the agency; and
2. Enforceable in any State court of competent jurisdiction or in a district court of the U.S.

If the parties execute an agreement pursuant to this policy, a party may void the agreement within three business days of the agreement's execution.

#### B5.7 (303.443) – Impartial Due Process Hearing:

Whenever a due process complaint is received, the parents of the child or the early intervention provider involved in the dispute must have an opportunity for an impartial due process hearing. The hearing is conducted by the DHHS IDEA Part C Office. At a minimum, a hearing officer:

1. Must not be:
  - o An employee of the DHHS IDEA Part C Office or the early intervention provider that is involved in the early intervention services or care of the infant or toddler, or
  - o A person having a personal or professional interest that conflicts with the person's objectivity in the hearing.
2. Must possess knowledge of, and the ability to understand, the provisions of part C of IDEA, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts.
3. Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice.
4. Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

A person who otherwise qualifies to conduct a hearing under this policy is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. The DHHS IDEA Part C Office keeps a list of the persons who serve as hearing officers. The list includes a statement of the qualifications of each person.

The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed unless the other party agrees otherwise. A parent, the DHHS IDEA Part C Office, or early intervention provider requests an impartial hearing on their due process complaint within two years of the date the parent, the DHHS IDEA Part C Office, or early intervention provider knew or should have known about the alleged action that forms the basis of the due process complaint. The timeline does not apply to a parent if the parent was prevented from filing a due process complaint due to:

1. Specific misrepresentations by the DHHS IDEA Part C Office or early intervention provider that it had resolved the problem forming the basis of the complaint; or
2. The DHHS IDEA Part C Office's or early intervention provider's failure to provide the parent information that was required under this section of this policy manual to be provided to the parent.

#### B5.8 (303.444) – Hearing Rights:

Any party to a hearing conducted pursuant to part C of IDEA has the right to:

1. Be accompanied and advised by counsel and individuals with special knowledge or training with respect to the problems of infants/toddlers with disabilities.
2. Present evidence and confront, cross-examine, and compel the attendance of witnesses.
3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing.
4. Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing.
5. Obtain written or, at the options of the parents, electronic findings of fact and decisions.

At least five business days prior to a hearing, each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing. A hearing officer may bar any party that fails to comply with policies in this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party. Parents involved in hearings must:

1. Be given the right to open the hearing to the public; and
2. Receive a copy of the record of the hearing and the findings of fact and decisions described in this policy at no cost.

#### B5.9 (303.445) – Hearing Decisions:

A hearing officer's determination of whether an infant/toddler was appropriately identified, evaluated, or placed, or whether the infant/toddler with a disability and his or her family were appropriately provided early intervention services under part C of IDEA is based on substantive grounds. In matters alleging a procedural violation, a hearing officer may find that a child was not appropriately identified, evaluated, placed, or provided early intervention services under part C of IDEA only if the procedure inadequacies:

1. Impeded the child's right to identification, evaluation, placement or provision of early intervention services for the child and that child's family under part C of IDEA
2. Significantly impeded the parent's opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for the child and that child's family under part C of IDEA
3. Caused a deprivation of educational or developmental benefit.

Nothing above precludes a hearing officer from ordering the DHHS IDEA Part C Office or early intervention provider to comply with procedural requirements noted in this section of the policy manual. Nothing in this section of this policy manual affects the right of a parent to file an appeal of the due process hearing decision with the DHHS IDEA Part C Office. Nothing in this section of the policy manual precludes a parent from filing a separate due process complaint of an issue separate from a due process complaint already filed. The DHHS IDEA Part C Office, after deleting any personally identifiable information, makes the finds and decisions available to the public.

#### B5.10 (303.446) – Finality of Decision, Appeal, Impartial Review:

A decision made in a hearing conducted pursuant to applicable policies in this section of the policy manual is final, except that any party involved in the hearing may appeal the decision. The DHHS IDEA Part C Office allows any party aggrieved by the findings and decision in the hearing to appeal to The DHHS IDEA Part C Office. If there is an appeal, the DHHS IDEA Part C Office conducts an impartial review of the findings and decision appealed. The official conducting the review:

1. Examines the entire hearing record;
2. Ensures the procedures at the hearing were consistent with the requirements of due process;
3. Seeks additional evidence if necessary. If a hearing is held to receive additional evidence, hearing rights apply;
4. Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;
5. Makes an independent decision on completion of the review; and

6. Gives a copy of the written or, at the option of the parents, electronic findings of fact and decisions to the parties.

The DHHS IDEA Part C Office, after deleting any personally identifiable information, must make the findings of fact and decisions described above available to the general public. The decision made by the reviewing official is final unless a party brings civil action.

#### B5.11 (303.447) – Timelines & Convenience of Hearing & Reviews:

The 45-day timeline adopted by the DHHS IDEA Part C Office under 303.440 (B5.5 of this policy) for the due process hearing described in 303.447 starts the day after one of the following events:

1. Both parties agree in writing to waive the resolution meeting.
2. After either the mediation or resolution meeting starts but, before the end of the 30-day period, the parties agree in writing that no agreement is possible.
3. If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or DHHS IDEA withdraws from the mediation process.

The DHHS IDEA Part C Office ensures that, after the 45-day timeline:

1. A final decision is reached in the hearing; and
2. A copy of the decision is mailed to each of the parties.

The DHHS IDEA Part C Office ensures that, no later than 30 days after the receipt of a request for review:

1. A final decision is reached in the review; and
2. A copy of the decision is mailed to each of the parties

A hearing or reviewing officer may grant specific extensions of time beyond the periods set out above at the request of either party. Each hearing and each review involving oral arguments is conducted at a time and place that is reasonably convenient to the parents and child involved.

#### B5.12 (303.448) – Civil Action:

Any party aggrieved by the findings and decision made under this section of the policy manual who does not have the right to an appeal, and any party aggrieved by the findings and decision, has the right to bring a civil action with respect to the due process complaint. The action may be brought in any State court of competent jurisdiction or in a district court of

the U.S. without regard to the amount in controversy. The party bringing the action has 90 days from the date of the decision of the hearing officer or the decision of the State review official, to file a civil action. In any action brought under this policy, the court:

1. Receives the records of the administrative proceedings,
2. Hears additional evidence at the request of a party, and
3. Bases its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

The district courts of the U.S. have jurisdiction of actions brought under section 615 of IDEA without regard to the amount in controversy. Nothing in this policy restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, Title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except before the filing of a civil action under these laws seeking relief that is also available under 615 of IDEA are exhausted to the same extent as would be required had the action been brought under section 615 of IDEA.

#### B5.13 (303.449) – State Enforcement Mechanisms:

Notwithstanding mediation and resolution policies, which provide for judicial enforcement of a written agreement reached as a result of a mediation or a resolution meeting, there is nothing in this policy that would prevent Nevada from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court or competent jurisdiction or in a district court of the U.S.

## **SECTION #6: DATA & RECORD KEEPING**

### **Subsection A: Data & Records**

#### **A6.1 (303.124) – Data Collection:**

Nevada has a statewide system for compiling and reporting timely and accurate data that meets part C of IDEA. The processes that Nevada uses regarding its data system is maintained separately and are sufficient to compile data on infants and toddlers with disabilities receiving early intervention services under part C of IDEA, including the sampling methods for reporting data required by the Secretary under applicable regulations.

The DHHS IDEA Part C Office has a Data Manager for the EIS who is knowledgeable regarding the data system, access to the system, part C of IDEA data requirements, forms and report generation, and develops the manual for the data system as well as provides training. EIS staff is provided with access to the system according to their level of interaction with the system and service provision. Information is entered into the system to allow for generation of reports, including:

1. Date and type of service provided
2. Child level information (child's name and demographics, etc.)
3. Provider of service
4. Location and amount of service
5. Payor of service
6. Notes and Part C required documents (e.g., IFSP, PWN, assessment/evaluation, etc.)
7. Child and Family Outcomes

The Data Manager provides monthly information to EIS program supervisors, the DHHS administrators and timely information to the Secretary. At a statewide level, the DHHS IDEA Part C Office Data Manager provides timely information to stakeholders/advocates, service providers and the ICC for information and improvement purposes. The DHHS IDEA Part C Data Manager can provide information to others when requested. All data reports are maintained for a minimum of six years with individual child records maintained for 23 years. Data collected meet federal requirements for collection methodology (e.g., APR, Child Count, etc.) and Nevada requirements (e.g., performance indicators, Caseload/Expenditures, etc.).

#### **A6.2 (303.720) – General Data Requirements:**

The DHHS IDEA Part C Office reports annually to the Secretary and to the public on the information required by part C of IDEA at the times specified by the Secretary. The DHHS

IDEA Part C Office submits the report to the Secretary in the manner prescribed by the Secretary.

#### A6.3 (303.721, 303.723 & 303.724) – Annual Report of Children Served:

The DHHS IDEA Part C Office counts and reports the number of infants and toddlers receiving early intervention services on any date between October 1 and December 1 of each year. The report includes:

1. The number and percentage of infants and toddlers with disabilities in the State, by race, gender and ethnicity, who are receiving early intervention services (and includes the number children who are reported to it by tribes, tribal organizations, and consortia as indicated in Part C of IDEA (303.731), including location of service provision (e.g., natural environment).
2. The number and percentage of infants and toddlers with disabilities by race, gender, and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons.

The DHHS IDEA Part C Office includes in its report a certification signed by an authorized official that the information provided in reports is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services. The DHHS IDEA Part C Office conducts an annual child count and ensures this information is also accurate. The DHHS IDEA Part C Office has information related to the number of due process complaints filed under 615 of IDEA, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.

#### A6.4 (303.722) – Data Reporting:

Data for Nevada is published in a manner that does not result in disclosure of data identifiable to individual children. Any information relayed or exchanged electronically that is related to screening, evaluation and assessment, eligibility determination, development and implementation of the IFSP, provision of services, individual complaints regarding the child, and any other area under part C of IDEA, related to the child or the child's family, must be maintained for 23 years.

## **APPENDIX I: Definitions**

Act (303.4) – the Individuals with Disabilities Education Act (IDEA)

CAPTA: Child Abuse, Prevention and Treatment Act

Child(ren) (303.6) – an individual under the age of six, including infants or toddlers with a disability as further defined in 303.21

Conformity (303.102) – As Nevada receives funds under Part C, it ensures that any State rules, regulations and policies conform to the purposes and requirements of part C of IDEA

Continuing Education – college or university coursework after staff has obtained certification, endorsement, licensure or equivalent state requirements, including in-service, workshops, conferences, etc. (when such entities provide approved continuing education units/credits).

Day (303.9) – a calendar day

Early Intervention System (303.1 & 303.12) – the total effort in a State (Nevada) that is directed at meeting the needs of children eligible under IDEA and their families, including early intervention programs (an entity designated for reporting under Part C) as well as any service provider, regardless of whether that entity receives Part C funding

EDGAR – the Education Department General Administration Regulations

Education Records – records covered by the Family Educational Rights and Privacy Act (FERPA), including records maintained in Nevada for early intervention

Elementary School (303.14) – means a nonprofit institutional day or residential school, including a public elementary charter schools, that provides elementary education, as determined under Nevada State Law

Fiscal Year – in Nevada a fiscal year is the period beginning on July 1<sup>st</sup> and ending on the following June 30<sup>th</sup>

Formula for State Allocation (303.730) – from the sums appropriated to carry out part C of IDEA for any fiscal year, the Secretary may reserve not more than one percent for payments to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the United States Virgin Islands in accordance with their respective needs for assistance under IDEA Part C

General Authority (303.100) – Nevada receives assistance from the Secretary to maintain and implement a statewide, comprehensive coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities

Grant – an award of financial assistance in the form of money, or property in lieu of money, by the federal government to an eligible recipient

Grantee – the nonprofit corporation or other legal entity to which a grant is awarded and which is accountable to the federal government for the use of the funds provided

Grant period – the period of time for which funds have been provided

Include or including – items/terms named are not all of the possible items/terms that are covered, whether like or unlike the ones named

HIPAA – Health Insurance Portability and Accountability Act

Homeless children (303.17) – means children who meet the definition given the term homeless children and youth according to the McKinney-Vento Homeless Assistance Act

IFSP (303.20) – Individual Family Service Plan

Lead Agency (303.22) – the Nevada Department of Health and Human Services (DHHS IDEA)

Location – where a service is provided

Method – how a service is provided

Minimum Components (303.110) – the Nevada Early Intervention (EIS) system includes, at a minimum, the component described in 303.111 through 303.126 in this policy manual

Multidisciplinary – the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and development of the IFSP

Native Language (303.25) – when used with respect to persons of limited English proficiency, or to an individual who is deaf or hard of hearing, blind or visually impaired means the language or mode of communication normally used by the parent of a child who is eligible for early intervention services

OSEP – Office of Special Education Programs, within the federal Department of Education

Paraprofessional – an early intervention employee who works under the supervision of a certified/licensed staff member to support and assist in the provision of instructional and other services to infants/toddlers with disabilities, and their families

Parent Handbook – document provided to every parent of an infant/toddler who is receiving early intervention services in Nevada

Parent Training and Information Center (303.28) – means a center assisted under section 671 or 672 of IDEA

Policy – State statutes, regulations, Governor’s orders, DHHS IDEA Part C Office directives and other documents that represent Nevada’s position concerning any matter covered under IDEA

Personally Identifiable Information (303.29) – Nevada’s early intervention system uses the term “Personally Identifiable Information” as it is indicated in 34 CFR 99.3, with the exception that, for the Nevada EI system, the term “student” means child and the term “school” means EI provider. All other sections of 34 CFR 99.3 is applicable

Private – as applied to an agency or institution, means that it is not under federal or public supervision or control

Professional or discipline – a specific occupational category, generally designated by Nevada State Personnel

Public – as applied to an agency or institution, means that the agency, organization, or institution, is under the administrative supervision or control of a government other than the federal government

Public Agency (303.30) – DHHS IDEA Part C Office and any other agency or political subdivision of Nevada

Public Attention (303.706) – Whenever Nevada receives notice that the Secretary is proposing to take, or is taking, an enforcement action, Nevada provides public notice, including posting the notice on the DHHS IDEA Part C websites and distributing to location media and early intervention programs

Re-allotment of funds (303.733) – if Nevada elects not to receive its allotment, the Secretary re-allots those funds among the remaining states.

Secretary (303.33) – the Secretary of the Department of Education, or official or employee of the Department of Education acting for the Secretary under a delegation of authority

Scientifically Based Research (303.32) - Scientifically based research has the meaning given the term in section 9101(37) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. In applying the ESEA to the regulations under part C of the Act, any reference to “education activities and programs” refers to “early intervention services.”

State (303.35) – each of the 50 states, Puerto Rico, the District of Columbia, and the jurisdiction of Guam, American Samoa, Virgin Islands, and the Commonwealth of the Northern Mariana Islands

State Allotments (303.732 & 733) – The Secretary allots to Nevada the amount that bears the same ratio to the aggregate amount as the number of infants and toddlers in Nevada. No State receives less than 0.5% of the aggregate amount available under IDEA Part C or \$500,000, whichever is greater. If the sums made available under Part C, for any fiscal year, are insufficient to pay the full amount that all states are eligible to receive, the Secretary ratably reduces the allotments to those states for such year. If additional funds become available for making payments, allotments that were reduced will be increased on the same basis the allotments were reduced. For the purpose of allotting funds to states:

- Aggregate amount: the amount available for distribution to states after the Secretary determines the amount of payments to be made to the Secretary of the Interior under 303.731, to the outlying areas under 303.730, and any amount to be reserved for state incentive grants under 303.734
- Infants and toddlers: children from birth through age two in the general population, based on the most recent satisfactory data as determined by the Secretary
- State: each of the 50 states, the District of Columbia and the Commonwealth of Puerto Rico

State Educational Agency (303.36) – the State board of education or other agency or office primarily responsible for the State Supervision of public Elementary schools and secondary schools (the Nevada Department of Education: NDE)

**APPENDIX II: DHHS IDEA Directive  
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**Nevada Department of Health and Human Services**  
**Directive to All Divisions**  
**Involved in the Coordination, Provision of, or Payment for Early Intervention Services**

The Nevada Department of Health and Human Services (DHHS IDEA) is designated by the Governor as the lead agency for the Nevada Early Intervention Services (NEIS) system which provides services and supports for infants and toddlers with disabilities and their families. Coordination, provision of, or payment for early intervention services operate across multiple Divisions within DHHS IDEA and are affected by this Directive as indicated below. The Part C office is located within the Director's Office in DHHS IDEA, with state early intervention programs located within the Aging and Disability Services Division (ADSD) of DHHS IDEA.

The purpose of this directive is to meet the requirements set forth in the federal Individuals with Disabilities Act (IDEA) Part C (34 CFR §303). Across DHHS IDEA, early intervention services and administrative structures will adhere to Part C regulations as indicated in this Directive. This Directive meets the requirement of the law and regulations relative to:

1. Assuring cooperation in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, and interagency system of services for infants and toddlers with disabilities and their families;
2. Promoting Department-wide collaboration and strengthening support for early intervention funding which is reasonable and necessary for the implementation of Nevada's early intervention program and available through existing federal and State resources
3. Ensuring adherence to the "Payor of Last Resort" provisions of the IDEA, Part C (303.222, 303.226, and 303.500-521)

Period of Directive:

This Directive is effective as of the date of issuance noted on the last page and shall remain in effect until such time as it is amended or revised and reissued by the Director of DHHS IDEA. This document will be reviewed annually to ensure compliance with federal and state laws and regulations.

Compliance with Law:

All activity pursuant to this Directive shall be in accordance with all current applicable federal and state laws and regulations. When any new laws or regulations are developed, or changes made to existing ones, this document shall be updated to ensure consistency of information. If any provision in this Directive violates any applicable federal or state law or regulation, current or future, that provision is considered modified for conformity.

**1. Description of Each Division or Program's Responsibilities**

The following Divisions within DHHS IDEA are identified as participants in the early intervention service system, including their responsibility for coordination, provision of, or payment for early intervention services to infants and toddlers with disabilities:

- i. Aging and Disability Services Division (ADSD) – service provision/payment/coordination of care
- ii. Division of Child and Family Services (DCFS) – service provision/coordination of care
- iii. Division of Public and Behavioral Health (DPBH) – coordination of care
- iv. Division of Health Care Financing and Policy (DHCFP) – payment
- v. Division of Welfare and Supportive Services (DWSS) – coordination of care

**2. Method for Ensuring Financial Responsibility**

The method of ensuring financial responsibility for each division related to the provision of early intervention services is contained in this Directive. No single Division is solely responsible for all early intervention services provided or funded in the State of Nevada. The services listed on the following chart and on the following page(s) define which Divisions provide and pay for each required early intervention service(s), as defined by the early intervention services section of the IDEA. Each Division’s role is defined as either provider/payer of the service, coordination of the service, or not a service provider within current eligibility as designated by:

- a. *PR = Division/Program is a provider for the service*
- b. *PA = Division/Program is a payer for the service*
- c. *C = Division/Program participates in coordination of services for Part C eligible children and families*
- d. *R = Division/Program is a primary Referral Source for children*
- e. *N = No specific responsibility at this time*

<b>Specific Duties/ Responsibilities</b> (Service(s) # from Key below)	<b>ADSD</b>	<b>DCFS</b>	<b>DPBH</b>	<b>DHCFP</b>	<b>DWSS</b>
Primary Referral Sources	PR	R	R	N	R
Early Identification & Screening / Child Find	PR, PA	R	C	PA	R
Multidisciplinary Evaluation and Assessment	PR, PA	N	N	PA	C
Case Management	PR, PA	C	N	PA	C
Medical		C	C	PA	C
Health Services (Eligibility)	PR, PA	C		PA	C
Early Intervention Services	PR, PA	N	N	PA	N
Family Resources Coordination, Including Transition	PR, PA	C	N	PA	C
Transportation	PA (as needed)	C	N	PA (as needed)	N
Consultation to Agencies	PR	C	C	PA	C

**Related EI Services and Supports (as defined in 34 CFR §303.12 )**

- (1) Assistive technology device and service***
- (2) Audiology services***
- (3) Family training, counseling, and home visits***
- (4) Health services (has the meaning given the term in 34 CFR §303.16)***
- (5) Medical services (as provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention service).***
- (6) Nursing services***
- (7) Nutrition services***
- (8) Occupational therapy***
- (9) Physical therapy***
- (10) Psychological services***
- (11) Service coordination services (has the meaning given the term in 34 CFR§303.34)***
- (12) Sign language and cued language services***
- (13) Social work services***
- (14) Special instruction***
- (15) Speech-language pathology services***
- (16) Vision services***

**3. Description of Collaboration and Coordination Between the Director's Office, IDEA Part C Office and Aging and Disability Services Division (ADSD)**

The IDEA Part C Office regional DS-IVs, under the direction of the Part C Coordinator, are responsible for monitoring the statewide system of early intervention services and assuring services are provided to each eligible child and family in accordance with IDEA Part C. The Part C Coordinator, under the supervision of the DHHS IDEA Deputy Director, is responsible for administration, oversight and policy guidance for implementation of Nevada's Early Intervention System.

The Part C Coordinator, with assistance by Part C staff, is responsible for administering federal Part C funds and ensures the implementation of all required components of the State's early intervention services program in accordance with Part C of the IDEA. Responsibilities of the Part C Coordinator, including designation of tasks to regional DS-IVs, include:

- A. Submitting an application annually for federal funds and submitting all federal reports required under IDEA Part C regulations 34 CFR 303;
- B. Ensuring all required components of the State's system of early intervention services are in place and functional, including the development of policies and procedures for the EI system;
- C. Implementing the statewide system of General Supervision which includes monitoring early intervention service programs and providers, public and private, ensuring timely correction of any identified non-compliance with federal and state requirements, and implementation of the procedural safeguards system;
- D. Facilitating the identification and coordination of all available resources
- E. Collaborating with other divisions and agencies to ensure financial responsibility under the IDEA (34 CFR §§303.500 – 520);
- F. Enforcing federal requirements and obligations; and
- G. Providing training and technical assistance regarding research based practices in early intervention services and requirements of the IDEA.

State General Funds allocated to support the early intervention system, and IDEA Part C funds passed through from the IDEA Part C Office, are administered through the Aging and Disability Services Division (ADSD) to ensure the provision of direct services to children and families who are potentially eligible, or eligible for services under the State's system of early intervention services. These funds are administered according to budgets approved by the Nevada Legislature, IDEA Part C requirements and State Early Intervention Policies for early intervention to oversee the implementation of direct services to children and families.

ADSD responsibilities include:

- a. Collaboration and coordination with the IDEA Part C Office to ensure implementation of the statewide system of early intervention services in accordance with IDEA, Part C;
- b. Implementing procedures to ensure the statewide availability of early intervention services for Part C eligible children and families and that those services are provided in a timely manner in accordance with IDEA Part C regulations and State policy;
- c. Contracting or otherwise making arrangements with public or private individuals or agency service providers to provide early intervention services in accordance with Part C of the IDEA;
- d. Identifying and coordinating all available resources to ensure compliance with payor of last resort requirements;

- e. Collaborating with other divisions and agencies to ensure financial responsibility under the IDEA (34 CFR §§303.511 – 520); and
- f. Providing technical assistance to contracted early intervention service program and/or providers, as appropriate.

## Dispute Resolution Process

No services to which a child is entitled to receive under Part C are delayed or denied because of disputes between divisions regarding financial or other responsibilities. System disputes concerning early intervention services may occur among providers or agencies. Inter- and intra-agency issues of compliance with the federal statutory and regulatory expectations of the early intervention (IDEA/NEIS) include the responsibility for provision of or payment for any of the early intervention services; the process for evaluation and placement; or other matters related to the Nevada Early Intervention Services program.

The Process for Dispute Resolution is as follows: \_\_\_\_\_

- a. Each Division shall resolve internal disputes, applying to payments or other relative matters, in a timely manner, based on their respective procedures.
  - b. In the event disputes arise between, or among, divisions related to payments or other matters related to the state's early intervention program, the dispute must be brought to the attention of the Administrators of the respective Divisions for review within 30 days.
- a. If the Administrators of the Divisions are able to reach agreement on resolution of the dispute, the specifics of the agreement are to be set forth in writing including timelines for implementation; or
- b. If the Administrators of the Divisions are unable to achieve resolution of the dispute within 14 working days, the issue must be brought to the attention of the Director of DHHS IDEA
  - c. The Director of the Department of Health and Human Services shall make a final determination and assign responsibility for payment of the service(s) in question. The decision of the Director is final and binding.

While disputes are pending involving payment for or provision of required services, the Aging and Disability Services Division (ADSD) shall pay for the services in question in accordance with payor of last resort provisions to ensure there is no delay in the provision of the early intervention service(s). Upon resolution of the dispute, if it is determined the fiscal responsibility was not that of ADSD, the Director shall reassign responsibility to the appropriate division. That Division shall make arrangements for reimbursement of costs to ADSD.

Director, DHHS IDEA: \_\_\_\_\_

Date:

This Directive Distributed to:

- a. Aging and Disability Services Division (ADSD)
- b. Division of Child and Family Services (DCFS)
- c. Division of Public and Behavioral Health (DPBH)
- d. Division of Health Care Financing and Policy (DHCFP)
- e. Division of Welfare and Supportive Services (DWSS)

**APPENDIX III: System of Payments**  
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**NEVADA SYSTEM OF PAYMENT POLICIES FOR EARLY INTERVENTION SERVICES  
UNDER  
THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) PART C**

**Policy #**

**B2.5 Use of Funds, Payor of Last Resort and System of Payments (34 CFR §§ 303.222; 303.500 – 303.521)**

Federal funds made available to Nevada under section 643 of the Individuals with Disabilities Education Act (IDEA) 2004 shall be expended in accordance with all requirements of the IDEA, its ensuing Regulations (34 CFR 303.) and other related regulations as specified in 34 CFR 303.3.

**I. Use of Funds (34 CFR §303.501)**

Nevada Department of Health and Human Services (DHHS IDEA) utilizes funds received under the provisions of section 643 of the IDEA for activities or expenses that are reasonable and necessary for implementing the State's early intervention program for infants and toddlers with disabilities.

Part C funds may also be used for the following:

- a. For direct early intervention services for infants and toddlers with disabilities and their families under this part that are not otherwise funded through other public or private sources (subject to 34 CFR §§ 303.510 through 303.521); and
- b. To expand and improve services for infants and toddlers with disabilities and their families that are otherwise available;
- c. To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purpose of –
  - a. Identifying and evaluating at-risk infants and toddlers;
  - b. Making referrals for the infants and toddlers identified and evaluated under item 3.a. of this section; and
  - c. Conducting periodic follow-up on each referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under Part C.

In Nevada, Part C funds are not used:

- i. To provide early intervention services to at-risk infants or toddlers in the State other than child find activities required under 34 CFR §303.302;
- ii. To extend the option for the provision of early intervention services for Part C eligible children beyond the age of three (3) years; or
- iii. To provide a free appropriate public education (FAPE) as defined in of 34 CFR § 303.15 in accordance with Part B of IDEA, to children from their third birthday to be beginning of the following school year;

**II. Payor of Last Resort (34 CFR §303.510)**

Federal funds received by the State under section 643 of the IDEA are utilized as payor of last resort in accordance with 34 CFR §§303.510 through 303.521. "Payor of last resort" includes the following provisions:

f. Non-substitution of funds

Part C funds, with the exception of the provisions in item 2 of this section, are not utilized to provide early intervention services to an infant or toddler with a disability that the child is entitled to receive, or have payment made, from any other Federal, State, local or private source (subject to the provisions of 34 CFR §§

303.520 and 521), including any medical program administered by the Department of Defense, but for the enactment of Part C of the IDEA.

g. Interim payments – reimbursement

If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child's family, Part C funds are used to pay the provider of services authorized under Part C of the IDEA pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

In the situation where there is dispute regarding the party responsible for payment services, the required service shall be provided to the child as specified in the child's IFSP pending resolution of the dispute as specified in the most current version of the *Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services*.

h. Non-reduction of benefits

Nothing in this policy shall be construed to permit the State to reduce medical or other assistance for services available in the State and furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of the IDEA or to alter eligibility under the following:

- a. Title V or the Social Security Act, 42 U.S.C. 701, et seq. (SSA) (relating to maternal and child health);
- b. Title XIX of the SSA, 42 U.S.C. 1396 (relating to Medicaid), including section 1903(a) of the SSA regarding medical assistance.

i. Early intervention service providers operating under Contract or Provider Agreement with the any Division of the Department of Health and Human Services (DHHS IDEA) to provide services to Part C eligible children and their families shall:

1. Make available for inspection all early intervention child records necessary to assure the appropriateness of payments, including all related financial information relative to billing of the public and/or private benefits of the child and family.
2. Be enrolled as a Medicaid Provider (Fee for Service and HMO's) and bill for allowable services. Written consent must be obtained from the parent before the agency, division or EI service provider discloses, for billing purposes, a child's personally identifiable information to the Division of Health Care Financing and Policy or any managed care organization operating on their behalf.
3. Bill private insurance carriers, only with written parent consent. If the family does not provide consent to bill their private insurance, all services required for that child and family must be provided at no cost to the family. If the parent provides consent to use of their private insurance for EI services, they will not incur any cost from fees, deductibles or co-pays. Part C or other funds, shall be used (in accordance with payor of last resort requirements) to cover any deductibles or co-pays that might be incurred by the family.
4. Provide reports of all billing for reimbursement and revenue received from, public and/or private benefits and insurance of the child and family (Medicaid, insurance and any medical program administered by the Department of Defense, etc.) in the form and format and according to the schedule established in the contract or provider agreement.

j. All Provider Agreements or Contracts established by any division of the Department of Health and Human Services (DHHS IDEA) for the purpose of providing early intervention services for Part C eligible children and their families shall be reviewed by, and a copy maintained with, the IDEA Part C Office to ensure the specifications of the Provider Agreement and/or Contract meet all requirements of Part C of the IDEA and these policies.

- k. All early intervention service provider programs operating under Contract or Provider Agreement with DHHS IDEA and/or any of its Divisions for the purpose of providing direct early intervention services to Part C eligible infants and toddlers and their families shall be monitored to determine compliance with Part C and contractual requirements. Programs shall also be audited periodically to ensure that Part C funds are being utilized in a manner compliant with payor of last resort requirements.

**III. Methods to ensure the provision of, and financial responsibility for, Part C Services (34 CFR §303.511)**

- I. Nevada has established method(s) to ensure intra-agency and interagency coordination. The Director of DHHS IDEA, per appointment of the Governor, ensures collaboration and coordination through the “*Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services.*” The Directive ensures:
  - a. The provision of, and establishing financial responsibility for, early intervention services provided under IDEA, Part C; and
  - b. Such services are consistent with the requirement in section 635 of the Act and the State’s application under section 637 of the Act, including the provision of such services during the pendency of any dispute between Divisions within the Department.
- II. Currently, all State and Federal programs responsible for the coordination, provision of, or payment for early intervention services operate across multiple Divisions within DHHS IDEA. The following Divisions are identified as participants in the early intervention service system in the capacity of coordination, provision of, or providing payment for early intervention services to infants and toddlers with disabilities:
  - I. Aging and Disability Services Division (ADSD) – service provision/coordination of care
  - II. Division of Child and Family Services (DCFS) – service provision/coordination of care
  - III. Division of Public and Behavioral Health (DPBH) – coordination of care
  - IV. Division of Health Care Financing and Policy (DHCFP) – payment
  - V. Division of Welfare and Supportive Services (DWSS) – coordination of care

**III. Method(s)**

The *Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services* clearly identifies the financial and service provision responsibilities of each division within DHHS IDEA. The Directive also sets forth the procedures and timelines for resolution of disputes. The procedures set forth in the Directive:

- a. Permits the DHHS IDEA division to resolve its own internal disputes (based on procedures included in the agreement), so long as the division acts within the timelines set forth in the Directive; and
- b. Includes the process that the lead agency will follow in achieving resolution of intra-agency disputes, if a given division is unable to resolve its own internal disputes in a timely manner.
- c. If, during the lead agency’s resolution of the dispute, the Director of DHHS IDEA determines that the assignment of financial responsibility under this section was inappropriately made--
  - 1. The Director of DHHS IDEA must reassign the financial responsibility to the appropriate agency; and
  - 2. Make arrangements for reimbursement of any expenditures incurred by the division originally assigned financial responsibility.

**IV. Procedures for Resolving Disputes**

The *Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services* establishes procedures for achieving a

timely resolution of intra-agency disputes about payments for a given service, or disputes about other matters related to the State's early intervention service program. The Directive specifies that:

3. Each Division shall resolve internal disputes, applying to payments or other relative matters, in a timely manner, based on their respective procedures.
4. In the event disputes arise between, or among, divisions related to payments or other matters related to the state's early intervention program, the dispute must be brought to the attention of the Administrators of the respective Divisions for review within 30 days.
  3. If the Administrators of the Divisions are able to reach agreement on resolution of the dispute, the agreement the specifics of the agreement are to be set forth in writing including timelines for implementation.
  4. If the Administrators of the Divisions are unable to achieve resolution of the dispute within 14 working days, the issue must be brought to the attention of the Director of the Department of Health and Human Services.
5. The Director of the Department of Health and Human Services shall make a final determination and assign responsibility for payment of the service(s) in question. The decision of the Director is final and binding.
6. While disputes are pending involving payment for or provision of required services, the Aging and Disability Services Division (ADSD) shall pay for the services in question in accordance with payor of last resort provisions to ensure there is no delay in the provision of the early intervention service(s).
7. Upon resolution of the dispute, if it is determined the fiscal responsibility was not that of ADSD, the Director shall reassign responsibility to the appropriate division. That Division shall make arrangements for reimbursement of costs to ADSD.

V. Delivery of Services in a Timely Manner

*The Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services* establishes procedures that ensure:

1. No services that a child is entitled to receive under Part C of the IDEA and Nevada's early intervention service program are delayed or denied because of disputes between divisions regarding financial or other responsibilities; and
2. Is consistent with the written funding policies established in this section and Section D of these policies regarding the use of insurance to pay for Part C services.

VI. Additional Components

*The Nevada Department of Health and Human Services Directive to All Divisions Involved in the Coordination, Provision of, or Payment for Early Intervention Services* includes all components necessary to ensure effective cooperation and coordination among the lead agency, its divisions, all public agencies, EIS service providers, public or private, that are involved in Nevada's early intervention service program and the lead agency's monitoring and general supervision system.

**IV. Payor of Last Resort and System of Payments Provisions – Use of Insurance, Benefits, System of Payments and Fees Use of public benefits or insurance or private insurance to pay for Part C services. (34 CFR §§303.520 - 521)**

(a) Use of public benefits or public insurance to pay for Part C services.

- (1) Nevada system of early intervention may not use the public benefits or insurance of a child or parent to pay for Part C services unless Nevada provides written notification, consistent with §303.520(a)(3), to the child's

parents, and the Nevada system of early intervention meets the no-cost protections identified in paragraph (a)(2) of this section.

- (2) With regard to using the public benefits or insurance of a child or parent to pay for part C services, the Nevada system of early intervention --
  - (i) May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;
  - (ii) Must obtain consent, consistent with §§303.7 and 303.420(a)(4), to use a child's or parent's public benefits or insurance to pay for Part C services if that use would--
    - (A) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;
    - (B) Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
    - (C) Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or
    - (D) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.
  - (iii) If the parent does not provide consent under paragraphs (a)(2)(i) or (a)(2)(ii) of this section, the Nevada system of early intervention must still make available those part C services on the IFSP to which the parent has provided consent.
- (3) Prior to using a child's or parent's public benefits or insurance to pay for part C services, the Nevada system of early intervention must provide written notification to the child's parents. The notification must include--
  - (i) A statement that parental consent must be obtained under §303.414, if that provision applies, before the Nevada lead agency or EIS provider discloses, for billing purposes, a child's personally identifiable information to the Nevada public agency responsible for the administration of the Nevada's public benefits or insurance program (e.g., Medicaid);
  - (ii) A statement of the no-cost protection provisions in §303.520(a)(2) and that if the parent does not provide the consent under §303.520(a)(2), the Nevada lead agency must still make available those part C services on the IFSP for which the parent has provided consent;
  - (iii) A statement that the parents have the right under §303.414, if that provision applies, to withdraw their consent to disclosure of personally identifiable information to the Nevada public agency responsible for the administration of the Nevada's public benefits or insurance program (e.g., Medicaid) at any time; and
  - (iv) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance).
- (4) If the Nevada Early Intervention Services System requires a parent to pay any costs that the parent would incur as a result of the Nevada's using a child's or parent's public benefits or insurance to pay for part C

services (such as co-payments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the Nevada's system of payments policies under §303.521 and included in the notification provided to the parent under paragraph (a)(3) of this section; otherwise, the Nevada cannot charge those costs to the parent.

(b) Use of private insurance to pay for Part C services.

- (1) (i) The Nevada may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent, consistent with §§303.7 and 303.420(a)(4), to use private insurance to pay for Part C services for his or her child or the Nevada meets one of the exceptions in paragraph (b)(2) of this section. This includes the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. Parental consent must be obtained--
    - (A) When the lead agency or EIS provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and
    - (B) Each time consent for services is required under §303.420(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.
  - (ii) If a Nevada requires a parent to pay any costs that the parent would incur as a result of the Nevada's use of private insurance to pay for early intervention services (such as co-payments, premiums, or deductibles), those costs must be identified in the Nevada's system of payments policies under §303.521; otherwise, the Nevada may not charge those costs to the parent
  - (iii) When obtaining parental consent required under paragraph (b)(1)(i) of this section or initially using benefits under a child or parent's private insurance policy to pay for an early intervention service under paragraph (b)(2) of this section, the Nevada must provide to the parent a copy of the Nevada's system of payments policies that identifies the potential costs that the parent may incur when their private insurance is used to pay for early intervention services under this part (such as co-payments, premiums, or deductibles or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy).
- (2) The parental consent requirements in paragraph (b)(1) of this section do not apply if the Nevada Early Intervention Services System has enacted a Nevada statute regarding private health insurance coverage for early intervention services under part C of the Act, that expressly provides that --
    - (i) The use of private health insurance to pay for Part C services cannot count towards or result in a loss of benefits due to the annual or lifetime health insurance coverage caps for the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy;
    - (ii) The use of private health insurance to pay for part C services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under part C of the Act; and

(iii) The use of private health insurance to pay for part C services cannot be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.

(3) If Nevada has enacted a State statute that meets the requirements in paragraph (b)(2) of this section, regarding the use of private health insurance coverage to pay for early intervention services under part C of the Act, the Nevada Early Intervention Services System may reestablish a new baseline of Nevada and local expenditures under §303.225(b) in the next Federal fiscal year following the effective date of the statute.

(c) Inability to pay. If a parent or family of an infant or toddler with a disability is determined unable to pay under Nevada's definition of inability to pay under §303.521(a)(3) and does not provide consent under paragraph (b)(1), the lack of consent may not be used to delay or deny any services under this part to that child or family.

(d) Proceeds or funds from public insurance or benefits or from private insurance.

(1) Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.

(2) If the Nevada Early Intervention Services System receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under part C of the Act, those funds are considered neither Nevada nor local funds under §303.225(b).

(3) If the Nevada Early Intervention Services System spends funds from private insurance for services under this part, those funds are considered neither Nevada nor local funds under §303.225.

(e) Funds received from a parent or family member under a Nevada's system of payments. Funds received by the Nevada Early Intervention Services System from a parent or family member under the Nevada's system of payments established under §303.521 are considered program income under 34 CFR 80.25. These funds--

(1) Are not deducted from the total allowable costs charged under Part C of the Act (as set forth in 34 CFR 80.25(g)(1));

(2) Must be used for the Nevada's Part C early intervention services program, consistent with 34 CFR 80.25(g)(2); and

(3) Are considered neither Nevada nor local funds under §303.225(b).

*(Authority: 20 U.S.C. 1432(4)(B), 1435(a)(10), 1439(a))*

V. **§303.521 System of payments and fees** (34 CFR §303.521)

Nevada has not adopted a fee schedule as outlined in 34 CFR §303.500(b). However, families may, if they choose to do so, participate in sharing the cost for provision of early intervention services through the use of their public and private insurance benefits as long as there is no direct cost to the family for the covered service.

1. Functions not subject to fees.

The following functions related to the early intervention service system must always be carried out at public expense and can never result in a cost to parents:

1. Implementing the child find requirements in 34 CFR §§303.301 through 303.303.
2. Evaluation and assessment, in accordance with 34 CFR §303.320, and the functions related to evaluation and assessment in 34 CFR §303.13(b).
3. Service coordination services, as defined in 34 CFR §§303.13(b)(11) and 303.33.
4. Administrative and coordinative activities related to—
  - a. The development, review, and evaluation of IFSPs and interim IFSPs in accordance with 34 CFR §§303.342 through 303.345;
  - b. Implementation of the procedural safeguards under 34 CFR §§303.400 through 303.449 and the other components of the statewide system of early intervention services under 34 CFR §§303.300 through 303.346; and
  - c. The provisions regarding use of funds, payor of last resort and system of payments under 34 CFR §§303.500 through 303.521.

2. Procedural Safeguards.

1. Parents must be informed that if they wish to contest the imposition of a fee, or the State's determination of the parent's ability to pay, they may do so through one of the following:
  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.
  4. Use any other procedure established by the State for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under this part, including the right to pursue, in a timely manner, the redress options described in 34 CFR 303.521(e)(3)(i) through (e)(3)(iii).

b. Parents shall be informed of these procedural safeguard options by either--

1. Providing parents with a copy of the "*Nevada Early Intervention Services Written Notice Related to Use of Private Insurance and Medicaid*" when obtaining consent for provision of early intervention services under §303.420(a)(3). This document provides the notice requirements for public benefits and insurance and describes the state's system of payments policies needed for use of the family's public or private insurances for early intervention services. The document also identifies the potential costs that the parent may incur when their private insurance is used to pay for early intervention services (such as premiums, or other long-term costs such as the loss of benefits because of annual or lifetime health insurance coverage caps under the insurance policy. when obtaining consent for provision of early intervention services under 34 CFR §303.420(a)(3); or
2. Including this information with the notice provided to parents under §303.421.

3. FAPE or use funds under Part B of the Act to serve children under age three.

Nevada does not utilize either Part B or Part C funds to provide a free appropriate public education (FAPE) to an infant or toddler with a disability under the age of three (or any subset of infants and toddlers with disabilities under the age of three),