

Section II A. Subpart C – Submitted and Not Yet Approved
State Policies and Procedures

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II.A.3. Each application must include the State’s policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under subpart F of 34 CFR §303.

I. General SOP requirements-These apply if the State is using any of the following to pay for Part C services: public benefits or insurance, private insurance, or a schedule of family or sliding fees.

The system of payments policies must be in writing §303.521(a)

NH system of payment policies are in writing in State Rule He-M510.14 which can be found on the web page: http://www.gencourt.state.nh.us/rules/state_agencies/he-m500.html and also in the “You’re your rights; Notice of Infant/Toddler and Family Rights Under New Hampshire’s Family-Centered Early Supports and Services Program” which is distributed to families upon referral and whenever decisions are made while receiving services. It is also available on the web at: <http://www.dhhs.nh.gov/dcbcs/bds/families.htm>. No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payment policies must address the payor of last resort requirements in §§303.510(a) and (b). 303.203(b)(I).

Funds under part C are not used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source, including any medical program administered by the Department of Defense, but for the enactment of part C of the Act. Therefore, funds under this part are used only for early intervention services that an infant or toddler with a disability needs but is not currently entitled to receive or have payment made from any other Federal, state, local, or private source (subject to §§303.520 and 303.521).

The Lead Agency (DHHS) is the sole payor for the NH part C program, and therefore §303.510(b) is not relevant.

NH policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private resources as required under subpart F of this part and including: policies or procedures adopted by the State as its system of payments that meet the requirements in §§303.510, 303.520 and 303.521 (regarding the use of public insurance or benefits, private insurance, or family costs or fees) include:

1. Local grants and fund raising used to supplement funding for local programs for activities not covered by State or Federal funds;
2. Private insurance;
3. State General funds;
4. Medicaid;
5. Preventative and Diagnostic Services are provided through the EPSTD (Early and Periodic Screening, Diagnosis, and treatment Services) program; and
6. Part C of IDEIA grant.

All early intervention services provided to Medicaid eligible children are funded through the Medicaid Bundle, with service coordination funded by Targeted Case Management. Private insurance pays for some therapy services. State General funds are used primarily as the Medicaid match. Part C is the payor of last resort.

Part C funds may be used to prevent a delay in the timely provision of early intervention services, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments and policies must specify which functions or services, if any, are subject to the system of payments (including any fees charged to the family as a result of using one or more of the family's public insurance or benefits or private insurance) §303.521 (a)

Functions or services subject to the State's system of payments include all of the early intervention services described in 34 CFR§303.13.

No fees, co-pays or deductibles are charged to the family as a result of using one or more of the family's public insurance or benefits or private insurance.

No family cost participation fees, co-payments, or deductibles are charged to the family for early intervention services.

The system of payments policies must include the payment system and schedule of sliding or cost participation fees that may be charged to the parent for early intervention services under this part. §303.521 (a)(1)

The State has not elected to use a cost participation fee.

No Family Cost Participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include the basis and amount of payments or fees §303.521(a)(2) NH families are not charged fees for any EI service.

The system of payments policies must include the State's definition of ability to pay (including its definition of income and family expenses, such as extraordinary medical expenses), its definition of inability to pay, and when and how the State makes its determination of the ability or inability to pay. §303.521(a)(3) §303.520

Because NH does not charge fees to families, there is no definition of ability or inability to pay.

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include an assurance that fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost (including child find, evaluations and assessments, service coordination services, administrative and coordinative activities related to procedural safeguards and the development, review and evaluation of IFSPs and interim IFSPs , and all Part C services when the parent or family meets the State's definition of inability to pay). {FAPE mandate states have additional requirements regarding those services that must be provided at no cost to the families} §303.521(a)(4)(i), (a)(4)(ii), (b), and (c).

Services that are provided to all families regardless of ability to pay or refuse consent to use insurance include child find, evaluations and assessments, service coordination services, administrative and coordinative activities related to procedural safeguards and the development, review and evaluation of IFSPs and interim IFSPs , and all Part C services.

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include an assurance that families will not be charged any more than the actual cost of the part C service (factoring in any amount received from other sources for payment for that service). §303.521(a)(4)(iii)

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include an assurance that families with public insurance or benefits or private insurance will not be charged disproportionately more than families who do not have public insurance or benefits or private insurance.

§303.521(a)(4)(iv)

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged. §303.521(a)(5)

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

The system of payments policies must include provisions that permit, but do not require, the lead agency to use part C or other funds to pay for costs such as the premiums, deductibles, or co-payments. §303.521(a)(6)

The NH System of Payments permit, but do not require, the lead agency to use part C or other funds to pay for costs such as the premiums, deductibles, or co-payments

Each State system of payments must include written policies to inform parents that a parent who wishes to contest the imposition of a fee, or the State's determination of the parent's ability to pay, may do one of the following:

(i) Participate in the mediation in accordance with §303.431

(ii) Request a due process hearing under §303.436 or §303.441, whichever is applicable.

(iii) File a State complaint under §303.434

(iv) 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 listed above.

(2) A State must inform parents of these procedural safeguard options by either

(i) Providing parents with a copy of the State's system of payments policies when obtaining consent for provision of early intervention services under §303.420(a)(3); or

(ii) Including this information with the notice provided to parents under 303.421.

303.521(e) §303.436 or §303.441, whichever is applicable.

(iii) File a State complaint under §303.434

(iv) 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 listed above.

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

Parents are provided a written copy of the SOP which includes when consent is required and specifically entitled services in accordance with §303.521(e), §303.420(9)(3), §303.421 in a document called: "Know your rights; Notice of Infant/Toddler and Family Rights Under New Hampshire's Family-Centered Early Supports and Services Program" which is distributed to families upon referral and whenever decisions are made while receiving services. It is also available on the web at: <http://www.dhhs.nh.gov/dcbcs/bds/families.htm>.

II. If State is Using Private Insurance-Requirements for SOPs

1. Consent-parental consent is required for use of private insurance, unless the State has a State statute with specific protections.

Unless there is a State statute that provides certain protections explained below, then 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 the frequency, length, duration, or intensity) in the provision of services in the child's IFSP. §303.520(b)(1)(i).

The NH SOP (He-M510.14) requires that Parental consent must be obtained:

- (A) Before private insurance is used for the initial provision of an early intervention service in the IFSP; and
- (B) Each time consent is required under §303.420(a)(3) due to an increase (in the frequency, length, duration, or intensity) in the provision of services in the child's IFSP.

The consent requirements for use of private insurance include the use of private insurance when such use is a prerequisite for the use of public benefits or insurance. §303.520(b)(1)(i).

The NH SOP requires that parental consent is requested for the use of private insurance when such use is a prerequisite for the use of public benefits or insurance.

If a parent or family of an infant or toddler with a disability is determined unable to pay under the State's definition of inability to pay under §303.521(a)(3) and does not provide consent for use of private insurance, the lack of consent may not be used to delay or deny any services under this part to that child or family. 303.520(c)

No family cost participation fees, co-payments, or deductibles are charged to the parent for early intervention services.

A parent or family of an infant or toddler does not provide consent for use of private insurance, the lack of consent may not be used to delay or deny any services under this part to that child or family.

2. Parental consent for use of private insurance is not required if there is a State statute with specific protections.

Parental consent for use of private insurance is not required if there is a State statute regarding private health insurance coverage for early intervention services under Part C that includes the following specific protections:

(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.

303.520(b)(2)

NH does not have a State statute that contains all of the protections listed in 303.520(b)(2). For this reason, parental consent is required for the use of private insurance as indicated below.

The NH SOP (He-M510.14) requires that Parental consent must be obtained:

(C) Before private insurance is used for the initial provision of an early intervention service in the IFSP; and

(D) Each time consent is required under §303.420(a)(3) due to an increase (in the frequency, length, duration, or intensity) in the provision of services in the child’s IFSP.

3. The following two provisions apply to all States that use private insurance, regardless of whether there is a state statute with specific protections, or the State obtains consent for use of private insurance.

The State must provide to the parent a copy of the State’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). That policy must be provided to the parents when parental consent is required (explained above), or, if the State has a State statute with the specific protections, then the policy must be provided when the State initially uses the benefits under a child or parent’s private insurance policy to pay for EIS. 303.520(b)(1)(iii).

A copy of the State’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 is provided to the parent (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) is provided to the parent when parental consent is required.

If a State requires a parent to pay any costs that the parent would incur as a result of the State’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 State’s system of payments policies under 303.521; otherwise, the State may not charge those costs to the parent. 303.520(b)(1)(ii).

Parents are notified of potential costs when private insurance is used to pay for early intervention services, such as premiums or other long-term costs associated with annual or

lifetime health insurance coverage caps. This means that parents are responsible for paying their insurance premium.

III. If State is using public benefits or insurance (e.g. Medicaid or CHIP)-Requirements for SOPs

1. Consent for use of public insurance or benefits, is required if the child or parent is not already enrolled in the program, or if the use of public insurance or benefits would result in certain specified costs.

Consent for use of public insurance or benefits is required if the child or parent is not already enrolled in the program, or if the use of public insurance or benefits would result in certain specified costs.

A State may not require a parent to sign up for, or enroll in, public insurance or 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. 303.520(a)(2)(i)

The State or EIS does not require a parent to sign up for or enroll in Medicaid 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. Consent to use Medicaid is obtained during the Medicaid application process.

A State must obtain consent 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 for home and community-based waivers based on aggregate health-related expenditures. 303.520(a)(2)(ii)

Use of Medicaid in NH will not:

- a. Decrease available lifetime coverage or any other insured benefit for the child or parent;
- b. Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;
- c. Result in any increase in premiums or discontinuation of public benefits or insurance for the child or the child's parents; or
- d. Risk loss of eligibility for the child or the child's parents for home and community-based waivers based on aggregate health-related expenditures.

Consent to use Medicaid is obtained during the Medicaid application process.

If the parent does not provide consent for use of public insurance or benefits when required under 34 CFR 303.520(a)(2)(i) or (a)(2)(ii), the State must still make available those part C services on the IFSP to which the parent has provided consent. 303.520(a)(2)(iii).

If a parent does not provide consent for use of public insurance or benefits when required under 34 CFR 303.520(a)(2)(i) or (a)(2)(ii), the State must still make available those part C services on the IFSP to which the parent has provided consent. 303.520(a)(2)(iii).

2. Regardless of whether parental consent is required, written notification must be provided to parents prior to using a child’s or parent’s public benefits or insurance. Prior to using a child’s or parent’s public benefits or insurance to pay for part C services, the State 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 State lead agency or EIS provider discloses, for billing purposes, a child’s personally identifiable information to the State public agency responsible for the administration of the State’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 State 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 State public agency responsible for the administration of the State’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). 303.520(a)(3).**

The NH SOP requires that parents are provided written notification prior to the use of the child’s or parent’s public benefits or insurance. This notice is contained in the “Know Your Rights; Notice of Infant/Toddler and Family Rights under New Hampshire’s Family-Centered Early Supports and Services Program”. This document is provided and explained to parents at the time of referral, evaluation, IFSP meetings, and upon request at any time. This written notification contains the following information:

- 1. 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 State lead agency must still make available those part C services on the IFSP for which the parent has provided consent; and
- 2. 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 premiums or other long-term costs associated with annual or lifetime health insurance coverage caps.

Since the NH State Lead Agency (DHHS) is the same agency that is responsible for the administration of the State’s public benefits program (Medicaid), the following requirements do not apply:

- (i) A statement that parental consent must be obtained under 303.414, if that provision applies, before the State lead agency or EIS provider discloses, for billing purposes, a child’s personally identifiable information to the State public agency responsible for the administration of the State’s public benefits or insurance program (e.g., Medicaid);**
- (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 State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time;

If a State requires a parent to pay any costs that the parent would incur as a result of the State's using a child's or parent's public benefits or insurance to pay for part C services (such as copayments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the State's system of payments policies under 303.521 and included in the notification provided to the parent that is explained above; otherwise, the State cannot charge those costs to the parent.

303.520(a)(4)

NH's SOP lists the costs that the parent would incur as a result of the State's using a child's or parent's public benefits or insurance to pay for part C services (such as private insurance premiums) in the notification provided to the parent.

Section II.A.4 Each application must include the State’s rigorous definition of developmental delay as required under §§303.10 and 303.111. Each Statewide system must include the State’s rigorous definition of developmental delay, consistent with §§303.10 and 303.203(c) that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must –

- (a) Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment procedures, consistent with §303.321, that will be used to measure a child’s development; and**
- (b) 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 in §303.21(a)(1).**

II.A.4 (a)

4(a) The evaluation and assessment procedures, consistent with 303.321, used to measure the child’s development are the same for all areas listed in 303.21(a)(1). Details regarding evaluation and assessment procedures are included below.

II.A.4 (b)

§§303.10, 303.111, 303.203(c), and 303.21(a)(1) Definition of Developmental Delay

Children may be found eligible according to 4 categories of eligibility:

1. **“Developmental delay”** means that a child, birth through age 2, has a 33% delay in one or more of the following areas as determined through completion of the multidisciplinary evaluation pursuant to He-M 510.06 (k):
 - a. Physical development, including vision, hearing, or both;
 - b. Cognitive development;
 - c. Communication development;
 - d. Social or emotional development; or
 - e. Adaptive development.
2. **“Atypical behavior”** means behavior reported by the family and documented by personnel listed in He-M 510.11 (b) (1) that includes one or more of the following:
 - a. Extreme fearfulness or other modes of distress that do not respond to comforting by caregivers;
 - b. Self-injurious or extremely aggressive behaviors;
 - c. Extreme apathy;
 - d. Unusual and persistent patterns of inconsolable crying, chronic sleep disturbances, regressions in functioning, absence of pleasurable interest in adults and peers, and inability to communicate emotional needs; or
 - e. Persistent failure to initiate or respond to most social situations.
3. **“At risk for substantial developmental delay”** means that a child, birth through age 2, experiences 5 or more of the following, as reported by the family and documented by personnel listed in He-M 510.11 (b) (1):
 - a. Documented conditions, events, or circumstances affecting the child including:
 - i. Birth weight less than 4 pounds;
 - ii. Respiratory distress syndrome;
 - iii. Gestational age less than 27 weeks or more than 44 weeks;
 - iv. Asphyxia;
 - v. Infection;
 - vi. History of abuse or neglect;
 - vii. Prenatal drug exposure due to mother’s substance abuse or withdrawal;

- viii. Prenatal alcohol exposure due to mother's substance abuse or withdrawal;
 - ix. Nutritional problems that interfere with growth and development;
 - x. Intracranial hemorrhage grade III or IV; or
 - xi. Homelessness; or
 "Homeless children" means children under the age of 3 years who meet the definition given the term "homeless children and youths" in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.
- b. Documented conditions, events, or circumstances affecting a parent, including:
- i. Developmental disability;
 - ii. Psychiatric disorder;
 - iii. Family history of lack of stable housing;
 - iv. Education less than 10th grade;
 - v. Social isolation;
 - vi. Substance addiction;
 - vii. Age of either parent less than 18 years;
 - viii. Parent/child interactional disturbances; or
 - ix. Founded child abuse or neglect as determined by a district court pursuant to RSA 169-C:21.
4. **"Established condition"** means that a child, birth through age 2, has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, even if no delay exists at the time of referral, as documented by the family and personnel listed in He-M 510.11 (b) (1), including, at a minimum, conditions such as:
- a. Chromosomal anomaly or genetic disorder;
 - b. An inborn metabolic fault;
 - c. A congenital malformation;
 - d. A severe infectious disease;
 - e. A neurological disorder;
 - f. A sensory impairment;
 - g. A severe attachment disorder;
 - h. Fetal alcohol spectrum disorder;
 - i. Lead poisoning; or
 - j. Developmental delay secondary to severe toxic exposure.

§303.300 General

The statewide comprehensive, coordinated, multidisciplinary interagency system to provide early intervention services for infants and toddlers with disabilities and their families referenced in 303.100 includes the following components:

- (a) Pre-referral policies and procedures include:
 - (1) A public awareness program as described in §303.301; and
 - (2) A comprehensive child find system as described in §303.302
- (b) Referral policies and procedures as described in §303.303
- (c) Post-referral policies and procedures that ensure compliance with the timeline requirements in §303.310 and include:
 - (1) Screening, if applicable, as described in §303.320;
 - (2) Evaluations and assessments as described in §§303.321 and 303.322; and
 - (3) Development, review, and implementation of IFSPs as described in §303.340 through §303.346

303.300(a)(1) Public Awareness Program – information for parents as described in §303.301 and in accordance with §303.116.

The public awareness program focuses on the early identification of infants and toddlers with disabilities; and provides information to parents of infants and toddlers through primary referral sources in accordance with §303.301.

(a) Preparation and dissemination.

Information is prepared on the availability of early intervention services under this part, and other services, as described in paragraph (b) of this section; and disseminated to all primary referral sources including hospitals and physicians to be given to parents of infants and toddlers, especially parents with premature infants or infants with other physical risk factors associated with learning and developmental complications; and adopt procedures for assisting the primary referral sources described in §303.303(c) in disseminating the information described in paragraph (b) of this section to parents of infants with disabilities.

Materials used to disseminate information to primary referral sources include providing pamphlets (Family Guide) with information about the Family-Centered Early Supports and Services (FCESS) program and presentations at conferences and meetings where primary care practitioners and other early childhood professionals congregate such as the forums, early childhood advisory council events, and ICC meetings. Information is also posted on the Lead Agency website providing information to professionals specifically on how to refer an infant or toddler and their family at: <http://www.dhhs.nh.gov/dcbcs/bds/earllysupport/refer.htm>. A page on this website provides information about the program specifically for parents as well as how to refer their infant or toddler at: <http://www.dhhs.nh.gov/dcbcs/bds/families.htm>. In addition, regional agencies and local programs are required to collaborate with local early childhood providers and the medical providers to ensure that they are aware of the program and that all infants and toddlers and their families who may be eligible for services are referred for evaluation and services if eligible.

(b) Information to be provided.

Information provided in the above materials includes a description of the availability of early intervention services under this part, 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 the location of the central directory, as described in §303.117.

(c) Information specific to toddlers with disabilities

All parents of toddlers with disabilities are informed of the availability of services under Section 619 of the Act (special education preschool) not fewer than 90 days prior to the toddler's third birthday. This is accomplished by providing a document called "Transition from Family-Centered Early Supports and Services: A Guide for Families and Staff". This booklet contains information for all families concerning the transition process with a focus on the transition to Special Education Preschool programs at age three. It is disseminated on or about the child's reaching 27 months and is discussed during home visits by the service provider. The booklet is available on the Lead Agency web site at: <http://www.dhhs.nh.gov/dcbcs/bds/families.htm>. Additional information about the transition process is also available on this page.

§303.300(a)(1) Comprehensive child find system in accordance with §303.302.

(a) The comprehensive child find system is consistent with part B of the act, state definition of developmental delay (34 CFR §300.111) and includes a system for making referrals to EIS

providers under this part that includes timelines and provides for participation by the primary referral sources listed in §303.303(c):

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

The child find system ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under this part that will reduce the need for future services; and meets the requirements in paragraphs (b) and (c) of this section and §§303.303, 303.310, 303.320, and 303.321.

(b) Scope of child find

The comprehensive child find system must ensure that:

- (1) All infants and toddlers with disabilities in the State who are eligible for early intervention services under this part are identified, located, and evaluated, including:
 - a. Indian infants and toddlers with disabilities residing on a reservation geographically located in the State (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the State based, in part, on the information provided by them to the lead agency under §303.731(e)(1); and
 - b. Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and
 - c. Infants and toddlers with disabilities that are referenced in §303.303(b); and
- (2) An effective method is developed and implemented to identify children who are in need of early intervention services

(c) Coordination

- (1) The lead agency, with the assistance of the Council, as defined in §303.8 must ensure that 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 the various education, health, and social service programs relevant to this part, including Indian tribes that receive payments under this part, and other Indian tribes, as appropriate; and
 - b. Is coordinated with the efforts of the:
 - i. Program authorized under part B of the Act;
 - ii. Maternal and Child Health program, including the Maternal, Infant, and Early Childhood Home Visiting Program, under Title V of the Social Security Act, as amended, (MCHB or Title V)(42 U.S.C. 701(a));
 - iii. Early Periodic Screening, Diagnosis and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(43) and 1396 (a)(4)(B));
 - iv. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000(42 U.S.C. 15001 et seq.);

- v. Head Start Act (including Early Head Start programs under section 645A of the Head Start Act)(42 U.S.C. 1381);
- vi. Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 9801 et seq.);
- vii. 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) (42 U.S.C. 5106(a));
- viii. Child care programs in the State;
- ix. The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
- x. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
- xi. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) The lead agency, with the advice and assistance of the Council, must take steps to ensure that:

- a. There will not be unnecessary duplication of effort by the programs identified in paragraph (c)(a)(ii) of this section; and
- b. The State will make 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.

§303.300(b) Referral policies and procedures as described in §303.303

§303.303(a) General

- (1) The Lead Agency's child find system described in §303.302 must include the State's procedures for use by primary referral sources for referring a child under the age of three to the part C program
- (2) The procedures required in paragraph (a)(11) of this section must –
 - a. Provide for referring a child as soon as possible, but in no case more than seven days, after the child has been identified; and
 - b. Meet the requirements in paragraphs (b) and (c) of this section.

§303.303(b) Referral of specific at-risk infants and toddlers. The procedures required in paragraph (a) of this section must provide for requiring the referral of a child under the age of three who:

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

§303.303(c) Primary referral sources. As used in this subpart, primary referral sources include:

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

(11) Domestic violence shelters and agencies.

Post-Referral Procedures: Screenings, Evaluations, and Assessments

§303.310 Post-referral timeline (45 days)

- (a) Except as provided in paragraph (b) of this section, any screening under 303.320 (NH has not adopted a screening policy), the initial evaluation and the initial assessments of the child and family under §303.321; and the initial IFSP meeting under §303.342 must be completed within 45 days from the date the lead agency or EIS provider receives the referral of the child.
- (b) Subject to paragraph (c) of this section, the 45-day timeline described in paragraph (a) of this section does not apply for any period when:
 - (1) The child or parent is unavailable to complete the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
 - (2) The parent has not provided consent for the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the lead agency or EIS provider to obtain parental consent.
- (c) The lead agency must develop procedures to ensure that in the event the circumstances described in (b)(1) or (b)(2) of this section exist, the lead agency or EIS provider must:
 - (1) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the lead agency or EIS provider to obtain parental consent;
 - (2) Complete the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances described in paragraph (b)(1) of this section no longer exist or parental consent is obtained for the initial evaluation, and the initial assessment of the child; and
 - (3) Develop and implement an interim IFSP, to the extent appropriate and consistent with 303.345.
 - (4) The initial family assessment must be conducted within the 45-day timeline in paragraph (a) of this section if the parent concurs and even if other family members are unavailable.

§303.321 Evaluation of the child and assessment the child and family

(a) General

- (1) Subject to obtaining parental consent in accordance with §303.420(a)(2), each child under the age of three who is referred for evaluation or early intervention services under this part and suspected of having a disability, receives:
 - a. A timely, comprehensive, multidisciplinary evaluation of the child in accordance with paragraph (b) of this section unless eligibility is established under paragraph (a)(3)(i) of this section; and
 - b. If the child is determined eligible as an infant or toddler with a disability as defined in §303.21:
 - i. A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;
 - ii. 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 the infant or toddler. The assessment of the child and family are described in paragraph (c) of this section and

these assessments may occur simultaneously with the evaluation, provided that the requirements of paragraph (b) of this section are met.

- (2) As used in this part:
 - a. 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 in §303.21. An initial evaluation refers to the child's evaluation to determine his or her initial eligibility under this part;
 - b. 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 under this part and includes the assessment of the child, consistent with paragraph ©(2) of this section; and
 - c. Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.
 - (3)
 - a. A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under this part if those records indicate that the child's level of functioning in one or more of the developmental areas identified in §303.21(a)(1) constitutes a developmental delay or that the child otherwise meets the criteria for an infant or toddler with a disability under §303.21. If the child's part C eligibility is established under this paragraph, the lead agency or WIS provider must conduct assessments of the child and family in accordance with paragraph (c) of this section.
 - b. Qualified personnel must use informed clinical opinion when conducting an evaluation and assessment of the child. In addition, the lead agency must ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility under paragraph (b) of this section.
 - (4) All evaluations and assessments of the child and family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.
 - (5) Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of native language in §303.25.
 - (6) Unless clearly not feasible to do so, family assessments must be conducted in the native language of the family members being assessed, in accordance with the definition of native language in §303.25.
- (b) Procedures 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 under this part. Procedures must include:
- (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 §303.21(a)(1);
 - (4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and education. If necessary, to understand the full scope of the child's unique strengths and needs; and
 - (5) Reviewing medical, educational, or other records.

(c) Procedures for assessment of the child and family.

- (1) An assessment of each infant or toddler with a disability must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following:
 - a. A review of the results of the evaluation conducted under paragraph (b) of this section;
 - b. Personal observations of the child; and
 - c. The identification of the child's needs in each of the developmental area in §303.21(a)(1).
- (2) 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 or toddler with a disability. The family-directed assessment must:
 - a. Be voluntary on the part of each family member participating in the assessment;
 - b. Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
 - c. Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

303.24 Multidisciplinary

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

- (a) Evaluation of the child in §§303.113 and 303.321(a)(1)(i) and assessments of the child and family in §303.321(a)(1)(ii), may include one individual who is qualified in more than one discipline or profession; and
- (b) The IFSP Team in §303.340 must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with §303.343(a)(1)(iv)).

303.25 Native Language

- (a) When used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act), means:
 - (1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and
 - (2) For evaluations and assessments conducted pursuant to §303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.
- (b) Native language, when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).

Evaluations and assessments are conducted and written in the child's or family's native language if determined by qualified personnel conducting the evaluation to be developmentally

appropriate given the child's age and communication skills, and be selected and administered so as not to be racially or culturally discriminatory.

All notices and reports are written in a language that is understandable to the general public and in the family's native language or other mode of communication used by the parent, unless it is clearly not feasible to do so.

If the native language or the other mode of communication of the parent is not a written language, the area agency or FCESS program shall take steps to ensure:

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

§303.322 Determination that a child is not eligible.

If, based on the evaluation conducted under §303.321, the lead agency determines that a child is not eligible under this part, the lead agency must provide the parent with prior written notice required in §303.421, and include in the notice information about the parent's right to dispute the eligibility determination through dispute resolution mechanisms under §303.430, such as requesting a due process hearing or mediation or filing a State complaint.

§303.340 Individualized family service plan

For each infant or toddler with a disability, the lead agency must ensure the development, review, and implementation of an individualized family service plan or IFSP developed by a multidisciplinary team, which includes the parent, that:

- (a) Is consistent with the definition of that term in §303.20; and
- (b) Meets the requirements in §§303.342 through 303.346 of this subpart.

§303.342 Procedures for IFSP development, review, and evaluation.

- (a) Meeting to develop initial IFSP – timelines. For a child referred to the part C program and determined to be eligible under this part as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the 45-day time period described in §303.310.
- (b) Periodic review.
 1. A review of the IFSP for a child and the child's family must be 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:
 - a. The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
 - b. Whether modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.
 2. The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.
- (c) Annual meeting to evaluate the IFSP. A meeting must be conducted on at least 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 assessments of the child and family conducted under §303.321 must be used in determining the early intervention services that are needed and will be provided.
- (d) Accessibility and convenience of meetings.
 1. IFSP meetings must be conducted:
 - a. In settings and at times that are convenient for the family; and

- b. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.
 - 2. Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.
 - (d) Parental consent. The contents of the IFSP must be fully explained to the parents and informed written consent, as described in §303.7, must be obtained, as required in §303.420(a)(3), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in §303.344(f)(1).
- (a) Initial and annual IFSP Team meeting.
 - 1. Each initial meeting and annual IFSP Team meeting to evaluate the IFSP must include the following participants:
 - a. The parent or parents of the child.
 - b. Other family members, as requested by the parent, if feasible to do so.
 - c. An advocate or person outside the family, if the parent requests that the person participate.
 - d. The service coordinator designated by the public agency to be responsible for implementing the IFSP.
 - e. A person or persons directly involved in conducting the evaluations and assessments in §303.321.
 - f. As appropriate, persons who will be providing early intervention services under this part to the child or family.
 - 2. If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:
 - a. Participating in a in a telephone conference call.
 - b. Having a knowledgeable authorized representative attend the meeting.
 - c. Making pertinent records available at the meeting.
- (b) Periodic review. Each periodic review under §303.342(b) must provide for the participation of persons in paragraphs (a)(1)(i) through (a)(1)(iv) of this section. If conditions warrant, provisions must be made for the participation of other representatives identified in paragraph (a) of this section.

303.344 Content of an IFSP.

- (a) Information about the child's status. The IFSP must include a statement of the infant or toddler with a disability's 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 that child's evaluation and assessments conducted under §303.321.
- (b) Family Information. With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family under §303.321(c)(2).
- (c) Results or outcomes. The IFSP must include a statement of the measurable results or measurable outcome 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.
- (d) Early intervention services.
1. The IFSP must include a statement of the specific early intervention services, based on peer-reviewed research (to the extent practicable), that are necessary to meet the unique needs of the child and the family to achieve the results or outcomes identified in paragraph (c) of this section, including:
 - a. The length, duration, frequency, intensity, and method of delivering the early intervention services;
 - b. (i). A statement that each early intervention services is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with §§303.13(a)8), 303.26 and 303.126, or, subject to paragraph (d)(1)(ii)(B) of this section, a justification as to why an early intervention service will not be provided in the natural environment.
 - (ii) 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 and services, must be:
 - (1) Made by the IFSP Team (which includes the parent and other team members);
 - (2) Consistent with the provisions in §§303.13(a)(8), 303.26, and 303.126; and
 - (3) Based on the child's outcomes that are identified by the IFSP Team in paragraph (c) of this section;
 - c. The location of the early intervention services; and
 - d. The payment arrangements, if any.
 2. As used in paragraph (d) (1) (i) of this section:
 - a. Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the services is provided on an individual or group bases;
 - b. Method means how a service is provided;
 - c. Length means the length of time the service is provided during each session of that service (such as an hour or other specified time period); and
 - d. Duration means projecting when a given service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).
 3. As used in paragraph (d)(1)(iii) of this section, location means the actual place or places where a service will be provided.
 4. For children who are at least three years of age, the IFSP must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.
- (e) Other services. To the extent appropriate, the IFSP also must:
1. Identify medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded under this part; 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.
- (f) Dates and duration of services. The IFSP must include:
1. The projected date for the initiation of each early intervention service in paragraph (d)(1) of this section, which date must be as soon as possible after the parent consents to the service,

as required in paragraph (d)(1) of this section, which date must be as soon as possible after the parent consents to the service, as required in §§303.342(e) and 303.420(a)(3); and

2. The anticipated duration of each service.

(g) Service coordinator.

1. The IFSP must 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 this part), 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.

2. In meeting the requirements in paragraph (g)(1) of this section, the term "profession" includes "service coordination."

(h) Transition from Part C services.

1. The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with §§303.209 and 303.211(b)(6), from part C services to:

a. Preschool services under part B of the Act, to the extent that those services are appropriate;

b. Part C services under §303.211; or

c. Other appropriate services.

2. The steps required in paragraph (h)(1) of this of this section must include:

a. discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

b. Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

c. Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with §303.209(b) (and any policy adopted by the State under §303.401€) and, with parental consent if required under §303.414, transmission of additional information needed by the LEA to ensure continuity of services from the part C program 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 §303.340 through §303.345; and

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

§303.345 Interim IFSPs-provision of services before evaluations and assessments are completed.

Early intervention services for an eligible child and the child's family may commence before the completion of the evaluation and assessments in §303.321, if the following conditions are met:

(a) Parental consent is obtained.

(b) An interim IFSP is developed that includes:

1. The name of the service coordinator who will be responsible, consistent with §303.344(g), for implementing the interim IFSP and coordinating with other agencies and persons; and

2. The early intervention services that have been determined to be needed immediately by the child and the child's family.

3. Evaluations and assessments are completed within the 45-day timeline in §303.310.

§303.346 Responsibility and accountability.

Each public agency or 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. However, part C of the Act does not require that any public

agency or EIS provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

A-9 A description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure, including any revision to an existing policy or procedure, needed to comply with Part C of the Act and 34 CFR Part 303, the lead agency:

- 1. Holds public hearings on the new policy or procedure, including any revision to an existing policy or procedure;**
- 2. Provides notice of the hearings held in accordance with §303.208(b)(1) at least 30 days before the hearings are conducted to enable public participation; and**
- 3. Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, 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 the Act and 34 CFR Part 303.**

Part C in the State of NH is administered by the Department of Health and Human Services (Department) through the Bureau of Developmental Services. In order for Department programs to be enforceable by state law, the Commissioner of the Department must adopt rules subject to the rulemaking authority granted by the state legislature and the Administrative Procedures Act ([RSA 541-A](#)), which details the statutory requirements for rulemaking. For this reason, “policies and procedures” are referred to as “rules” in this document. Please see the [General Court website on Administrative Rules](#) for further details: and the [rulemaking flowchart](#).

The State is aware that Federal grant based programs have different requirements regarding public notice and has allowed for these differences, as described below.

Holds public hearings on the new policy or procedure, including any revision to an existing policy or procedure

RSA 541-A governs the rulemaking process, and the Office of Legislative Services, Division of Administrative Rules maintains a [“Drafting and Procedure Manual for Administrative Rules”](#) which provides additional rulemaking requirements and guidance.

Both documents detail the requirement for an agency to hold at least one public hearing for all proposed rules, including both new rules and any revisions to existing rules. See <http://www.gencourt.state.nh.us/rsa/html/LV/541-A/541-A-11.htm> for detailed information.

Example: For the most recent proposed rule, the department scheduled two public hearings, on January 23 in Concord, NH, and January 29, 2013 in Conway, NH.

Part C: Public hearings are held when new or revised policies or procedures are proposed. 30 days notice is provided prior to the hearings.

Provides notice of the hearings held in accordance with §303.208(b)(1) at least 30 days before the hearings are conducted to enable public participation

NH state law requires an agency to give at least 20 days’ notice of its intent to hold a public hearing on each proposed rule. Notice of a public hearing appears in the [Rulemaking Register](#), published weekly by the Office of Legislative Services, Division of Administrative Rules, at least 20 days before the hearing. (See [RSA 541-A:6, I](#), for detailed information.) Notice is also posted on the Department’s [rulemaking website](#).

Example: the most recently proposed rule, in order to comply with §303.208(b)(1), in addition to the notice published in the [December 27 Rulemaking Register](#), notice was also published in the December 21 & 22, 2012 editions of the [Union Leader](#), the newspaper with the greatest

statewide circulation, allowing 33 days notice of the first scheduled public hearing. See newspaper ad on page 35.

State requirements: The state holds at least one public hearing on new rules (including any revision to an existing rule) and affords all interested persons reasonable opportunity to testify, submit data, views, arguments in writing and in electronic format. An agency may hold a public hearing or otherwise solicit public comment by such means as are appropriate to reach interested parties.

Part C: Public comment is accepted for a minimum of 30 days within the 60-day period of public notice. Part C provides 30 days notice prior to holding public hearings.

Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an exiting policy or procedure) needed to comply with Part C of the Act and 34 CFR Part 303.

Department policy is to accept public comment on a proposed rule beginning at the initial published notice of the rule and continuing until the last day of the public comment period. NH state law requires an agency to allow a period of at least 5 business days after the public hearing on a proposed rule for the submission of materials in writing or in electronic format (see [RSA 541-a:11, I\(b\)](#)). Example: In order to comply with Part C of the Act and 34 CFR Part 303, the public comment period for the most recently proposed rule was scheduled to end on February 25 (33 days after the first scheduled public hearing).

State requirements: Public comment forums are held at such times and in such places as to allow for a maximum level of participation from those interested. Electronic comments are collected and reviewed. In addition, NH State rules also allow that the official of rulemaking authority, lack of a quorum or determination that postponement may facilitate greater participation by the public may postpone a public comment hearing due to inclement weather, illness or unavoidable absence.

Part C practice: New or revised rules, policies or procedures are circulated widely and all comments are taken into consideration. Stakeholders are provided an opportunity to review and make comment on any proposed policies or procedures prior to submission to the State rule making process. This is referred to as an “informal comment” period. Stakeholders participating in the informal comment period include the ICC, local program directors and staff, the Parent Information Center (PTI), families, and others who have expressed an interest in the work of Part C program. Information is disseminated electronically to these groups as well as at regularly scheduled ICC meetings and meetings with local program directors, Area Agency representatives, and the Medical Care Advisory Committee.

The proposed rules are revised based on received comment, and then submitted into the rulemaking process. Once the rulemaking process has been initiated, the following process is followed.

Proposed rules are posted with 60 days’ notice prior to holding 2 public hearings, and with public comment accepted for a minimum of 30 days within the 60-day period of public notice. Proposed rules are published in the newspaper with greatest statewide circulation, posted on the DHHS website, and notice disseminated using electronic means. Comments are again

solicited from the ICC, local program directors and staff, the Parent Information Center (PTI), families, and others who have expressed an interested in the work of the Part C program.

A document labeled “Part C Public Participation Guidelines” provides a checklist for staff to ensure that public participation requirements are consistently carried out correctly. The staff member assigned to ensure that a document is posted correctly to encourage public participation must complete the checklist and maintain a copy of the checklist as documentation that public participation requirements have been met. A copy of the checklist is attached.



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF COMMUNITY BASED CARE SERVICES**

BUREAU OF DEVELOPMENTAL SERVICES

Nicholas A. Toumpas
Commissioner

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5034 1-800-852-3345 Ext. 5034
Fax: 603-271-5166 TDD Access: 1-800-735-2964

Part C Public Participation Guidelines

Before an application under Part C of the IDEA is submitted to the U.S. Department of Education and also before new policies or procedures are adopted, including revision to an existing policy or procedure, there must be a 60 day period, with an opportunity for public comment on the application for at least 30 days during that period. Use this form for documentation and guidance.

- A. Use this checklist if the application contains new policies or procedures or revision to existing policy or procedure including revisions to the State rules He-M510 or He-M203: (Check off actions and date appropriately)**

_____ Deadline for completing public participation requirements

_____ Date 60 day period begins _____ Date 60 day period ends _____

Within the 60 day period, the following must happen:

_____ 30 day Notice that a policy (rule) or procedure may be changed.

Date notice begins _____

Date notice ends _____

_____ 30 days for public comment

Date public comment begins _____

Date public comment ends _____

_____ Hold at least **two Public Hearings** on new policies (rules) or procedures including any revision to _____ an existing policy/rule.

_____ **Provide 30 day Notice before hearings!**

Date of Hearing #1 _____, location: _____

Date of Hearing #2 _____, location: _____

_____ Publish notice for hearings, notice, and comment periods in the newspaper with greatest statewide circulation **60 days before due date**. Please note that all dates for public

notice and comment can be placed in the same newspaper ad and website posting. A sample newspaper ad is attached on the back of this check list.

Name of newspaper: _____ Dates published: _____

_____ Date posted to web site (use newspaper ad)

_____ Date email message (use newspaper ad) sent to key Stakeholders including, but not limited to:

NH ICC, FCESS program directors, AA representatives, (BDS list of key constituents)

Date message sent: _____ (keep copy to verify to whom the email was sent)

B. USE THIS CHECKLIST FOR SUBMISSION OF A PART C ANNUAL APPLICATION, NO NEW POLICIES OR PROCEDURES:

Date application is due _____

60 days for Public Participation is required including **30 days' notice** that the application will be submitted and **30 days for comment**. Check off actions and date appropriately.

_____ Date 60 day period begins _____ Date 60 day period ends _____

Within the 60 day period, the following must happen:

_____ 30 day Notice that the application will be submitted

Date notice begins _____

Date notice ends _____

_____ 30 days for public comment

Date public comment begins _____

Date public comment ends _____

_____ Publish notice for notice, and comment periods in the newspaper with greatest statewide circulation **60 days before due date**. Please note that all dates for public notice and comment can be placed in the same newspaper ad and website posting. A sample newspaper ad is attached on the back of this check list.

Name of newspaper: _____ Dates published: _____

_____ Date posted to web site (use newspaper ad)

_____ Date email messages (use newspaper ad) sent to key Stakeholders including, but not limited to:

NH ICC

FCESS program directors
AA representatives
(Bureau of Developmental Services list of key constituents)

Date message sent: _____(keep copy to verify to whom the email was sent)

SAMPLE NEWSPAPER AD

Notice of Opportunity for Public Comment

Public notice on the application by the Department of Health and Human Services for federal funds to plan for and provide services to infants and toddlers with disabilities ages birth through two years as provided for under Part C of the Individuals with Disabilities Education Improvement Act (IDEIA, reauthorized 2004), is provided during the period: (start date of notice) to (end date of notice). Several policies and procedures have been revised in accordance with Part C Regulations of 2011. Public comment may be submitted from (begin date for public comment) to (end date for public comment). Two Hearings (if needed) will be held on the following dates: (date, time, and location) and (date, time, and location). Copies of the proposed application are available electronically at: (DHHS web page) or as a hard copy upon request from: (name), Bureau of Developmental Services, 105 Pleasant Street, Concord, NH 03301, (email address). Interested persons are invited to submit written comment to: (name), Administrator, Child and Family Supports and Services, Bureau of Developmental services, 105 Pleasant Street, Concord, NH 03301, (email address).