

Mississippi Early Intervention Program(EIP)

Changes and clarifications in definitions of terms according to Part C regulations- 2012

The definition of Early Intervention Services(EIS) adds and clarifies the following specific definitions:

Assistive technology device-“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 functional capabilities of individuals with disabilities.”

Further, assistive technology service is defined as “any service that directly assists an individual with a disability in selection, acquisition or use of an assistive technology device.”

Sign language and cued language services-includes auditory/oral language and transliteration services. It defines sign language and cued language services to include “teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.”

Speech language pathology services- children with delay in communication skills or with motor skills such as weakness of muscles around the mouth or swallowing

Vision services- identification of children with visual disorders or delays and providing services and training to those children

Health services- does not include services that are related to the implementation, optimization (mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant and includes specific provisions.

§303.34 clarifies the role of the service coordinator.

Service coordination services include:

- (1) making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families,
- (2) ensuring the timely provision of services,
- (3) conducting follow-up activities to determine that appropriate Part C services are being provided,
- (4) informing families of their rights and procedural safeguards, and/or
- (5) coordinating the funding sources for services required under IDEA Part C.

Service coordinators are no longer required to coordinate the funding sources for “other services”.

§303.34(b)(2) adds “educational” and “social” as examples of other services that the service coordinator helps to coordinate.

§303.34(b)(10) clarifies that the service coordination services include facilitating the development of a transition plan to school, or if appropriate, other services, in addition to preschool, which was in the prior regulations.

§303.34(c) incorporates into the regulations the text of the role that was in the prior regulations regarding characterizing the services as case management[current §303.23(a)(2)(ii), which provides that the service coordinator is responsible for “serving as the single point of contact in helping parents to obtain services and assistance they need.”] or any other service that is covered by another payer of last resort.

§303.21 Infant or toddler with a disability

(a) **Infant or toddler with a disability** means an individual under three years of age who needs early intervention services because the individual-

- (1) is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:
 - (i) Cognitive development,
 - (ii) Physical development,
 - (iii) Communication development, and/or
 - (iv) Social emotional development.
- (2) Has a diagnosed physical or mental condition that-
 - (i) has a high probability of resulting in developmental delay; and
 - (ii) includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

§303.32 adds a definition of scientifically based research which cross references, with appropriate modifications, the definitions of the same term contained in section 9101(37) of the Elementary and Secondary Education Act of 1965. The term scientifically based research is used with Evidence Based Practice (EBP) and emphasizes the systematic and deliberate integration of science and craft, or alternatively, data and theory.

§303.111 state definition of developmental delay

Mississippi has included the rigorous definition of development delay below, 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-

- (a) describes 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) specifies the level of development 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).

Developmental Delay means that a child has not attained developmental milestones expected for the child's chronological age adjusted for prematurity in one or more of the following areas:

1. Cognitive,
2. Physical (including vision and hearing),
3. Communication,
4. Social/Emotional, and/or
5. Adaptive development.

Developmental delay for Early Intervention Program (EIP) has been measured by qualified personnel using informed clinical opinion, appropriate diagnostic procedures and /or instrumental and documented as:

- (1) 25% delay in two or more areas of development
- (2) 33% delay in one area of delay
- (3) if appropriate standardized instruments are individually administered in the evaluation process, a score of 2.0 standard deviation below the mean in one area or 1.5 standard deviation below the mean in each of two functional areas.

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:

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.

§303.321 (a)(1)(ii) clarifies that assessments provided for each eligible child must include:

- (1) multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet those needs; and
- (2) 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.

§303.321(a)(2)(iii) clarifies that an initial assessment refers to assessments of the child and family conducted prior to the child's initial IFSP meeting, both of which must be conducted within the 45-day timeline described in §303.310.

§303.321 (a)(1)(ii) and (a)(3)(i) clarify that an assessment is required once a child is determined eligible, regardless of how eligibility is determined.

§303.321(a)(3)(i) clarifies that a child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) if those records indicate a developmental delay.

System of Payments

IDEA Part C services, the State’s system of payments or SOP policy, must be in writing and submitted to OSEP as part of the State’s application: public benefits or insurance, private insurance, and family fees.

Serving At-Risk Infants and Toddlers with Disabilities

§303.5 adds a new definition for at-risk infant and toddler. Such children can be identified based on biological or environment risk factors. It includes as examples (at the State’s discretion) children being directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

Mississippi has elected not to serve “at-risk” infants and toddlers, however, they will be screened and monitored (tracked) if no delay is present. If a delay is identified a comprehensive evaluation will take place within the 45 day timeline.

Multidisciplinary

§303.340 clarifies that the IFSP must be developed by a multidisciplinary team. §303.24 revises the definition of multidisciplinary to clarify that the IFSP Team must include the involvement of the parent and two or more individuals from separate disciplines or professions which one of these individuals being the service coordinator.

§303.24 clarifies that, with respect to evaluations and assessments, multidisciplinary may include one individual who is qualified in more than one discipline or profession.

IFSP Development

§303.342 was revised to be more accurate by providing that an IFSP meeting must be held for a child referred to the Part C program and determined eligible, rather than a child evaluated for the first time, as stated in the prior regulation.

§303.342 provides that the meeting to develop the initial IFSP meeting must be held within the 45 day time period which has been revised to include two exceptions:

- (1) §303.310 The child or parent is unavailable to complete the screening (if applicable), 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,**
- (2) The parent has not provided consent for the screening (if applicable), 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.**

Provision of services as soon as possible after parental consent-

§303.20(c), §303.342(e) and §303.344(f)(1) clarify that early intervention services must be provided “as soon as possible” and this defines 30 days to be 30 business days.

§303.342 (b)(ii) clarifies that one of the purposes of the periodic review is to determine whether

modification or revision of the results, outcomes, or early intervention services identified in the IFSP is necessary.

Referrals

§303.209(b)(1)(iii) provides that if a child is referred to the lead agency fewer than 45 days before that toddler's third birthday, the lead agency is not required to conduct the initial evaluation, assessment, or IFSP meeting and if that child may be eligible for preschool services or other services under Part B of the Act, the lead agency, with parental consent, required under §303.414, must refer the toddler to the SEA and the appropriate LEA for the area in which the toddler resides. The child must be referred "as soon as possible" but in no case more than seven calendar days after the child has been identified.

Referral of children under CAPTA (Child Abuse Prevention and Treatment Act) and DHS

§303.206 and §303.303(b) incorporate the statutory changes regarding referral policies for specific children in section 637(a)(6) of the IDEA 2004 amendments, except that the language regarding substantiated cases of abuse has been modified. The statutory language referred to children "involved" in substantiated cases of abuse, while the regulatory language in §303.303(b)(1) referral to children who are the "subject" of a substantial case of abuse (or neglect). Additionally, §303.303(b)(2) adds the term "directly" before the language affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure."

Homeless children- refers to children:

- (a) sharing housing due to economic hardship or loss of housing,
 - (b) living in motels, hotels, trailer parks, or campgrounds due to lack of alternative accommodations,
 - (c) living in emergency or transitional shelters,
 - (d) waiting for foster care placement,
 - (e) whose primary night time residence is not ordinarily used as a regular sleeping accommodations (e.g. park benches, etc.),
 - (f) living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations.
- (section 7225(42 U.S.C.11434a) of the McKinney-Vento Homeless Assistance Act) §303.17

§303.101(a)(1)(ii) and (iii) incorporates changes from section 634(1) of the IDEA referring to infants and toddlers with disabilities who are homeless children and their families and infants and toddlers with disabilities who are wards of the State.

§303.112(b) incorporates the changes by requiring the State to have a policy that ensures appropriate Early Intervention Services (EIS) are available to infants and toddlers with disabilities who are homeless children and their families.

§303.13 Early Intervention Services (EIS) are available to all infants and toddlers with disabilities in the state and their families, including—

- (a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;
- (c) Infants and toddlers with disabilities who are homeless;

(d) Infants and toddlers with disabilities who are wards of the State.

Wards of the state- means children who have retained a legal guardian from the court.

Screening- means a process involving those instruments, procedures, family information and observations, and clinical observations used by an approved evaluator (trained to administer appropriate screening instruments) to assess a child's development status to indicate what type of evaluation, if any, is warranted.

Screening procedures:

§303.320 establishes procedures that the State must use if the State elects to adopt screening procedures. The definition means activities under paragraphs (a)(1) and (a)(2) of this section that are carried out by, or under the supervision of the lead agency or 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 includes the administration of appropriate instruments by personnel trained to administer those instruments.

If the lead agency or EIS provider proposes to screen a child, it must-

- (i) provide the parent notice of its intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the parent's right to request an evaluation at any time during the screening process; and**
- (ii) obtain parental consent before conducting the screening procedures.**

The lead agency is not required to:

- (i) provide an evaluation of the child under §303.321 unless the child is suspected of having a disability or the parent request an evaluation or**
- (ii) make early intervention services available unless a determination is made that the child meets the definition of infant or toddler with a disability.**

Head Start

§303.210(b) requires the State lead agency to participate as a representative under section 642(b)(1)(C)(viii) of the Head Start Act, on the State Advisory Council on Early Childhood Education and Care established under the Head Start Act.

Native language

§303.25 provides a new definition for native language, including a reference to limited English proficient or LEP as that LEP term is defined in the ESEA, consistent with IDEA section 601. §303.25 and §303.321(a)(5) provide that all evaluations and assessments of a child must be conducted in the native language of the child, (native to the various populations in the state and specifies those language) if determined developmentally appropriate by qualified personnel conducting those evaluations and assessments, and §303.321(a)(6) provides that family assessments

must be conducted in the native language of the family member being assessed, in accordance with the new definition in §303.25, unless clearly not feasible to do so.

With this revision, §303.25(a)(1) provides that the native language of an individual with English proficiency is the language normally used by that individual, or in the case of the child, the language

normally used by the parents of the child for evaluations and assessments of a child, the native language of a child with limited English proficiency is the language normally used by the child if qualified personnel conducting the evaluation and assessment determine that the language is developmentally appropriate for the child given the child's age and communication skills.

§303.31 and §303.13(c) Qualified personnel are those individuals who are approved as required by this subpart to deliver services to the extent authorized by their licensure, certification or registration to eligible children and have appropriate licensure, certification or registration with the area in which they are providing services. These services include:

- Audiologists
- Certified occupational therapist assistants
- Licensed practical nurses
- Certified low vision specialists
- Occupational therapists
- Orientation and mobility specialists
- Physical therapists
- Physical therapist assistants
- Pediatrician and other physicians
- Physician assistants
- Psychologists
- Registered dietitians
- Speech language pathologists/audiologists
- Teachers of the blind
- Teachers of the deaf and hard of hearing
- Teachers of speech and hearing
- Hearing Resource Consultants
- Special Instructors

§303.31 and §303.13(c) clarify that Qualified Personnel adds to the list of qualified personnel registered dietitians (instead of nutritionists), and vision specialist, including ophthalmologists and optometrists.

§303.29 revises the definition of personally identifiable information to cross reference, with appropriate modifications, the definition of that same term contained in regulations under the Family Educational Rights and Privacy Act (FERPA) in 34 CFR 99.3, as amended.

Natural Environments (§303.26) mean settings that are natural or typical (previously stated as normal) for an infant or toddler without a disability. Added to the definition of natural environments is the phrase "same-aged" before infant and toddler without a disability, and before it was "peers without a disability".

Transition

§303.209(b)(iii) provides that if a child is referred to the lead agency fewer than 45 days before that toddler's third birthday, the lead agency is not required to conduct the initial evaluation, assessment, or IFSP meeting and if that child may be eligible for preschool services or other services

under PART B of the Act, the lead agency, with parental consent, required under §303.414, must refer the toddler to the SEA and the appropriate LEA.

The LEA will be notified of a potentially eligible child (a child who at 27 months with an active IFSP enrolled in Part C).

MSDH will electronically transfer identifying information to the MDE at 30 months of age.

§303.209(c) states that a child exiting Part C, the transition conference must be held, among the lead agency, the parents, and the LEA, not fewer than 90 days and, at the discretion of parties not more than 9 months before the child will no longer be eligible to receive early intervention services under Part C, to discuss any services that the child may receive under Part B.

§303.209(e) requires that the transition conference conducted under paragraph(c) of this section or the meeting to develop the transition plan under paragraph (d) of this section(which conference and meeting may be combined into one meeting) must meet the IFSP meeting and participant requirements.