

Section II

STATE POLICIES, METHODS, AND DESCRIPTIONS

1. Introduction (§303.1)

- A.** The purpose of Part C of the Individuals with Disabilities Education Act (IDEA) is to provide financial assistance to States to:
1. Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers, birth to three years of age, with disabilities and their families;
 2. Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources, including public and private insurance coverage;
 3. Enhance Mississippi's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;
 4. Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children under age three, including historically underrepresented populations, particularly minority, low-income, urban, rural, and infants and toddlers in foster care; and
 5. Encourage States to expand opportunities for children under three years of age who would be at risk of having a substantial developmental delay if they did not receive early intervention services.

2. General Requirements

A. Lead Agency (§303.201)

1. The Mississippi State Department of Health (MSDH), as legislated by the Mississippi State Legislature in 1994, is the lead agency for a statewide system of early intervention services in Mississippi. The early intervention program in Mississippi is known as the First Steps Early Intervention Program (FSEIP or First Steps EIP). MSDH is the lead agency in Mississippi responsible for the administration of funds provided under Part C of IDEA, to implement and maintain a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

2. The MSDH administers First Steps EIP statewide through nine public health district offices, State/Local Interagency Coordinating Councils, and collaborating agencies (i.e., Mississippi Department of Education (MDE), Department of Human Services (DHS), Head Start, Mississippi Division of Medicaid, Universities/Medical Programs, and EI service programs/providers in local public health districts) to facilitate family and community involvement in the statewide Early Intervention System and to assure that local resources are coordinated to assist families to meet the needs of their infants and toddlers with developmental delays and disabilities.

B. Statewide Policy (§303.101)

1. MSDH has policy in effect to ensure that appropriate early intervention services, as defined in §303.13, are available to all infants and toddlers with disabilities and their families living in Mississippi, including:
 - a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in Mississippi;
 - b) Infants and toddlers with disabilities who are homeless children and their families; and
 - c) Infants and toddlers with disabilities who are wards of the State of Mississippi.
2. MSDH has in effect a statewide system of early intervention services that meets the requirements of section 635 of IDEA, including policies and procedures that address, at a minimum, the components required in §303.111 through §303.126.

C. State Conformity with Part C of IDEA (§303.102)

1. MSDH/First Steps EIP ensures that any State rules, regulations, and policies relating to Part C of IDEA conform to the purposes and requirements of Part C of IDEA.

D. Efforts to Employ and Advance Qualified Individuals with Disabilities (§303.105)

1. MSDH/First Steps EIP makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under Part C of IDEA.

E. Minimum Components of a Statewide System (§303.110)

1. First Steps EIP includes the following minimum components in the statewide system of EI services:

a) Mississippi's Definition of Developmental Delay (§303.111)

Mississippi has a rigorous definition of developmental delay that is consistent with §303.10 and §303.203(c), that is used by the State in carrying out programs under Part C of IDEA in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of IDEA. The definition:

- (1) Describes, for each of the areas listed in §303.21(a)(1), the evaluation and assessment procedures, consistent with §303.321, that are used to measure a child's development; and
- (2) Specifies 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), including cognitive, physical, communication, social or emotional and adaptive development, including conditions such as chromosomal abnormalities, sensory impairments, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, severe attachment disorders, and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

b) Availability of Early Intervention Services (§303.112)

- (1) Mississippi has a State policy that is in effect that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including:
 - (a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in Mississippi; and
 - (b) Infants and toddlers with disabilities who are homeless children and their families.

c) Screening, Evaluation, Assessment, and Nondiscriminatory Procedures (§303.113)

- (1) First Steps EIP meets the requirements of §303.321 and ensures:
 - (a) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State; and
 - (b) A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler.
- (2) The evaluation and family-directed identification required in paragraph (1) of this section meets the requirements of §303.321.

d) Individualized Family Service Plan (IFSP) (§303.114)

- (1) First Steps EIP ensures that for each infant and toddler with a disability and his or her family in Mississippi, that an IFSP, as defined in §303.20, is developed and implemented that meets the requirements of §303.340 through §303.345, and that includes service coordination services, as defined in §303.34.

e) Comprehensive Child Find System (§303.115)

- (1) First Steps EIP has a comprehensive child find system that meets the requirements in §303.302 and §303.303.

f) Public Awareness Program (§303.116)

- (1) First Steps EIP's public awareness program:
 - (a) Focuses on the early identification of infants and toddlers with disabilities; and
 - (b) Provides information to parents of infants and toddlers through primary referral sources in accordance with §303.301.

g) Central Directory (§303.117)

- (1) First Steps EIP has a Central Directory that is accessible to the general public through the MSDH/First Steps EIP website. The

website link is provided to parents of eligible children within the Notice of Infant/Toddler and Family Rights and Procedural Safeguards. The directory includes accurate, up-to-date information about:

- (a) Public and private early intervention services, resources and experts available in Mississippi; and
- (b) Professional and other groups, including parent support, and training and information centers, that provide assistance to infants and toddlers with disabilities eligible under Part C of IDEA and their families; and
- (c) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.

h) Comprehensive System of Personnel Development (CSPD) (§303.118)

- (1) Mississippi has a comprehensive system of personnel development, including the training of professionals, paraprofessionals and primary referral sources with respect to the basic components of early intervention services available in Mississippi.
- (2) Mississippi's comprehensive system of personnel development includes:
 - (a) Training personnel to implement innovative strategies and activities for recruitment and retention of EI service providers;
 - (b) Promoting the preparation of EI service providers who are fully and appropriately qualified to provide early intervention services under Part C of IDEA; and
 - (c) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from early intervention services under Part C of IDEA to a preschool program under Section 619 of IDEA, Head Start, Early Head Start, an elementary school program under Part B of IDEA, or another appropriate program.

- (3) Mississippi's comprehensive system of personnel development includes:
- (a) Training personnel to work in rural and urban areas;
 - (b) Training personnel in the emotional and social development of young children;
 - (c) Training personnel to support families in participating fully in the development and implementation of their infant's or toddler's IFSP; and
 - (d) Training personnel who provide services under Part C of IDEA to use standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care, which is the State Early Childhood Advisory Council (SECAC), established under the Head Start Act.

i) Personnel Standards (§303.119)

- (1) MSDH has policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of Part C of IDEA are appropriately and adequately prepared and trained. These standards:
- (a) Are consistent with approved or recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services in the state of Mississippi;
 - (b) Do not prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with Mississippi law, regulation, or written policy to assist in the provision of early intervention services under Part C of IDEA to infants and toddlers with disabilities; and
 - (c) Include making ongoing good-faith efforts to recruit

and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in geographic areas of the state where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards.

j) Lead Agency Role in Supervision, Monitoring, Funding, Interagency Coordination, and other Responsibilities (§303.120)

- (1) The MSDH has policies and procedures in place to define responsibility for the following:
 - (a) The general administration and supervision of programs and activities administered by participating agencies and EI service programs/providers receiving assistance under Part C of IDEA;
 - (b) Monitoring of programs and activities used to carry out Part C of IDEA (whether or not the programs or activities are administered by agencies, institutions, organizations, and EI service programs/providers that are receiving assistance under Part C of IDEA), to carry out Part C of IDEA, including:
 - (i) Monitoring agencies, institutions, organizations and EI service programs/providers used to carry out Part C of IDEA in Mississippi;
 - (ii) Enforcing imposed obligations on agencies, institutions, and EI service programs/providers under Part C of IDEA and these regulations;
 - (iii) Providing technical assistance, as necessary, to agencies, institutions, organizations;
 - (iv) Correcting noncompliance identified through monitoring, as soon as possible, and in no case, longer than one year of identification of noncompliance through monitoring; and

(v) Conducting activities consistent with §303.700 through §303.707, including monitoring and enforcement, data collection, annual performance and reporting, and related performance consequences.

(c) Identifying and coordinating of all available resources for EI services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of Part C of IDEA;

(d) Assigning of financial responsibility in accordance with subpart F of Part C of IDEA;

(e) Developing procedures in accordance with subpart F of Part C of IDEA to ensure that EI services are provided to infants and toddlers with disabilities and their families under Part C of IDEA in a timely manner, pending the resolution of any disputes among public agencies or EI service programs/providers.

(f) Resolving intra- and interagency disputes in accordance with subpart F; and

(g) Entering into formal interagency agreements or other written methods that define the financial responsibility of each agency for paying for EI services consistent with Mississippi law, and procedures for resolving disputes that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of Part C of IDEA.

k) Policy for Contracting or Otherwise Arranging for Services (§303.121)

(1) First Steps EIP follows policies required by MSDH regarding the contracting or making other arrangements with public or private individuals or agency service providers to provide EI services, or individual EI service programs/providers, to provide early intervention services in Mississippi, consistent with the provisions of Part C of IDEA, including the contents of the application, and the conditions of the contract or other arrangements. The policy:

- (a) Includes a requirement that all EI services meet Mississippi standards and are consistent with the provisions of Part C of IDEA; and
 - (b) Is consistent with the Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 80.
- (2) Approved contract staff and provider agencies are required to make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under Part C of IDEA.

l) Reimbursement Procedures (§303.122)

- (1) First Steps EIP, consistent with MSDH policies, has procedures for securing timely reimbursement of funds used under Part C of IDEA, in accordance with subpart F of Part C of IDEA.

m) Procedural Safeguards (§303.123)

- (1) First Steps EIP, consistent with MSDH policies, has procedural safeguards in place which meet the requirements of subpart E of Part C of IDEA.

n) Data Collection (§303.124)

- (1) First Steps EIP has a system of compiling and reporting timely and accurate data that meets the requirements of Part C of IDEA. The First Steps Information System (FSIS) is the data based system used to compile data on infants and toddlers with disabilities receiving early intervention services under Part C of IDEA. A Data Manual, updated as needed, provides instructions for collecting, entering and maintaining the data for EI staff. A data manager, with collaboration from technical assistants and monitoring staff, collects data, as appropriate, that is used for reporting the required data specified in sections 616 and 618 of IDEA and §303.700 through §303.707 and §303.720 through §303.724. First Steps EIP does not use samples for data collection.

o) State Interagency Coordinating Council (SICC) (§303.125)

- (1) First Steps EIP, consistent with MSDH policies, has a State Interagency Coordinating Council (SICC), appointed by the

Governor of Mississippi, which meets the requirements of subpart G of Part C of IDEA.

p) Early Intervention Services in Natural Environments (NE) (§303.126)

(1) First Steps EIP, consistent with MSDH policies, has policies and procedures to ensure, consistent with §§303.13(a)(8)(early intervention services), §303.26 (natural environments), and §303.344(d)(1)(ii) (content of IFSP), EI services for infants and toddlers with disabilities are provided:

(a) In natural environments to the maximum extent appropriate; and

(b) In settings, other than the natural environment, that are most appropriate, as determined by the parent and other members of the IFSP team, only when EI services cannot be achieved satisfactorily in a natural environment.

3. Application Requirements and Assurances

A. Lead Agency Designation for Administration of Funds (§303.201)

1. The Mississippi State Department of Health (MSDH) is the lead agency responsible for the administration of funds provided under Part C of IDEA. First Steps Early Intervention Program (First Steps EIP or FSEIP), as designated by MSDH, is the statewide system to ensure the funds are expended appropriately in providing a statewide system of early intervention services.

B. Statewide System and Description of Services (§303.203)

1. MSDH's policies and procedures include:

a) A description of services that are provided under Part C of IDEA to infants and toddlers in Mississippi who have disabilities and their families through the early intervention system; and

b) The 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 and including:

- (1) Policies or procedures adopted by Mississippi, as its system of payments, that meet the requirements in §303.510, §303.520 and §303.521;
- (2) Methods used to implement the requirements under §303.511 (b)(2) and (b)(3) adopted as its system; and
- (3) Mississippi's rigorous definition of developmental delay that meets the requirements of §303.10 and §303.111.

C. Definition of At-Risk Infants and Toddlers and Description of Services (§303.204)

1. MSDH does not include children who are at-risk in the definition of children who are eligible for early intervention services under Part C of IDEA.

D. Referral Policies for Specific Children (§303.206)

1. MSDH has policies and procedures that require the referral for early intervention services under Part C of IDEA of specific children under the age of three (3) as described in §303.303(b).

E. Availability of Resources (§303.207)

1. MSDH ensures that there is equitable access to resources that are made available under Part C of IDEA for families in all geographic areas in Mississippi through the nine (9) public health districts.

F. Public Participation and Procedures (§303.208)

1. At least sixty (60) days prior to being submitted to the Department, Mississippi's application for funds under Part C of IDEA, including any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application, is published in a manner that ensures circulation throughout the state for at least a sixty (60) day period, with an opportunity for public comment on the application for at least thirty (30) days during that period. MSDH/First Steps EIP places a notice in a newspaper with statewide circulation, posts on the MSDH Website, and provides an electronic notice to State Interagency Coordinating Council (SICC) members/stakeholders for public comment on the EI Grant Application under Part C of IDEA and new/revised policies.
2. The application includes a description of the policies and procedures used by the First Steps EIP 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 IDEA and these regulations, First Steps EIP:

- a) Holds public hearings on the new policy or procedure, including any revision to an existing policy or procedure;
- b) Provides notice of the hearings held in accordance with paragraph 2. a) (above) at least thirty (30) days before the hearings are conducted to enable public participation; and
- c) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EI service providers, and members of the SICCC to comment for at least thirty (30) days on new policies, procedures and any revisions to existing policy or procedures needed to comply with Part C of IDEA and these regulations.

G. Transition to Preschool and Other Programs (§303.209)

1. Application Requirements. Mississippi's application for funds under Part C of IDEA includes:
 - a) A description of the policies and procedures that First Steps EIP uses to ensure a smooth and seamless transition for infants and toddlers with disabilities under the age of three and their families from receiving EI services under Part C of IDEA to:
 - (1) Preschool or other appropriate services for toddlers with disabilities; or
 - (2) Exiting First Steps EIP under Part C for infants and toddlers with disabilities.
 - b) A description of the methods that First Steps EIP uses to meet each of the transition requirements, including notification to Mississippi Department of Education (MDE) and the local education agency (LEA), the steps and services to develop the Transition Plan, Transition Conference, and other applicable requirements; and
 - c) An Interagency Agreement with MSDH/First Steps EIP and Mississippi Department of Education (MDE) to ensure a smooth and seamless transition between Part C and Part B services and to meet the requirements of IDEA.

2. Notification to MDE and Appropriate Local Education Agency (LEA).

a) MSDH ensures that:

- (1) An infant or toddler who is “potentially eligible for Part B services” is defined as an infant or toddler who is in an active status with First Steps EIP at 27 months of age and has an implemented IFSP. No fewer than ninety (90) calendar days before the toddler’s third birthday, if that toddler may be potentially eligible for preschool services under Part B of IDEA, First Steps EIP notifies the MDE and the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with State law. Required disclosure information (as described in b) (below) on the potentially eligible infants and toddlers is submitted by an electronic notification to MDE and by a child find letter to the local education agency (LEA).
- (2) A toddler who is determined eligible for early intervention services under Part C of IDEA more than forty-five (45) but less than ninety (90) days from that toddler’s third birthday, and if that toddler may be eligible for preschool services under Part B of IDEA, MSDH, as soon as possible after determining eligibility, notifies the MDE and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of IDEA, as determined in accordance with State law; or
- (3) A toddler who is referred to MSDH fewer than forty-five (45) days prior to the toddler’s third birthday and that toddler may be potentially eligible for preschool services under Part B of IDEA, is referred to the MDE and the LEA in the area where the toddler resides, with parental consent as required under §303.414. However, First Steps EIP is not required to conduct an evaluation, assessment or an initial IFSP meeting under these circumstances.

b) MSDH provides the required disclosure (child’s name, date of birth, parent’s name and contact information) according to §303.401(d)(1)(2)(3) and includes the service coordinator’s name and contact information to MDE by electronic transmittal and by a child find

letter to the LEA where the child resides.

- c) MSDH does not have an opt-out policy (§303.401(e)(2)) allowing a parent to object to disclosure of this information. All potentially eligible children are referred to MDE and the LEA where the child resides.

3. Conference to Discuss Services.

- a) MSDH ensures that if a toddler with a disability may be eligible for preschool services under Part B of IDEA, First Steps EIP, with the approval of the family of the toddler, convenes a conference among First Steps EIP, the family, and the LEA not fewer than ninety (90) days, and, at the discretion of all parties, not more than nine (9) months, before the toddler's third birthday to discuss any services the toddler may receive under Part B of IDEA; and
- b) If MSDH determines that a toddler with a disability is not potentially eligible for preschool services under Part B of IDEA, MSDH/First Steps EIP, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among First Steps EIP, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.

4. Transition Plan.

- a) MSDH ensures that for all toddlers with disabilities:
 - (1) Program options are reviewed for a toddler with a disability for the period from the toddler's third birthday through the remainder of the school year; and
 - (2) Each family of a toddler with a disability who is served under this part is included in the development of the transition plan required under this section and §303.344(h).
- b) A transition plan is established in the Individualized Family Service Plan (IFSP) not fewer than ninety (90) days and, at the discretion of all parties, not more than nine (9) months, before the toddler's third birthday; and
- c) The transition plan in the IFSP includes, consistent with §303.344(h), as appropriate:
 - (1) Steps for the toddler with a disability and his or her family to

exit from the Part C of IDEA program; and

- (2) Any transition services that the IFSP team identifies as needed by that toddler and his or her family.

5. Transition Conference and Meeting to Develop the Transition Plan.

- a) Any conference conducted to discuss services or meeting to develop the transition plan under 4. (above) must meet the requirements in §§303.342(d) and (e) and §303.343(a). The conference and meeting may be combined into one meeting.

6. Applicability of Transition Requirements.

- a) The transition requirements in paragraphs 1. through 5. above apply to all toddlers with disabilities receiving services under Part C of IDEA before those toddlers turn age three.
- b) MSDH does not provide EI services to children age three and older.

H. Coordination with Head Start, Early Head Start, Early Education, and Child Care Programs (§303.210(a)(b))

1. MSDH promotes collaboration with Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, *et seq.*, as amended), early education, child care programs, and services under this part through procedures established and participation in or by:

- a) Local or Area Advisory Boards;
- b) Director, Mississippi Head Start Collaboration, Office of the Governor;
- c) Executive Director, Mississippi Head Start Association; and
- d) State Advisory Council on Early Childhood Education and Care through the Mississippi Separate Early Childhood Advisory Council Board (SECAC).

State Interagency Coordinating Council members include the above Head Start representatives.

2. Consistent with section 642B(b)(1)(C)(viii) of the Head Start Act, First Steps EIP participates with SECAC in Mississippi, as established under the Head Start Act.

G. State Option to Make Services Available to Children Ages Three and Older (§303.211)

1. First Steps EIP does not have a policy to serve children who have reached their third birthday, are eligible for preschool services under section 619 of the Act, or who were previously eligible for EI services, with the exception of the group “children with summer birthdays”.

H. Additional Information and Assurances (§303.212)

1. MSDH/First Steps EIP administers the early intervention program through the nine (9) public health districts in Mississippi, thus ensuring equitable access to and participation in a state-wide system of early intervention services for all persons in Mississippi. MSDH/First Steps EIP further ensures an environment that is free from discrimination based on gender, race, national origin, color, disability, or age in accordance with section 427(b) of the General Education Provisions Act (GEPA).
2. The MSDH, as lead agency, implements procedures that make EI services available through innovative means in traditionally underserved and extremely rural areas of Mississippi, especially in the Mississippi Delta. At least two university sub grants/contracts are assisting in the development of an outreach program to make services more available for persons living in extremely rural areas of Mississippi.

MSDH has increased parent involvement through sub-grants/contracts with universities, hospitals, the Department of Mental Health, and other programs that target specific special needs, including hearing and autism. MSDH/First Steps EIP has collaborated with Mississippi PTI (Parent Training Institute) to develop an Early Intervention Program booklet to be disseminated to parents statewide and is jointly participating in PTI parent support group meetings across the state.

One of the State Interagency Coordinating Council (SICC) members represents the Choctaw Indian Nation, which is located in central Mississippi.

MSDH contracts with a Spanish interpreter who is available to assist EI staff statewide. First Steps Early Intervention Program brochures have been translated and printed in Spanish and are available for dissemination among the increasing Hispanic population across the state of Mississippi. There is also a Vietnamese interpreter available to Service Coordinators and families on the Gulf Coast of Mississippi where there is a large population with Vietnamese origin. Early Intervention Program brochures have been translated and printed in Vietnamese and are available to Vietnamese families on the Gulf Coast and in other areas of Mississippi, as needed.

I. Expenditure of Funds (§303.221)

1. MSDH ensures that Federal funds made available to the state of Mississippi, under section 643, are expended in accordance with the provisions of Part C of IDEA, including §303.500 through §303.501.

J. Payor of Last Resort (§303.222)

1. MSDH ensures that it complies with the requirements in §303.510 and §303.511 in subpart F of Part C of IDEA.

K. Control of Funds and Property (§303.223)

1. MSDH ensures that:
 - a) The control of funds provided under Part C of IDEA, and title to property acquired with those funds, are in a public agency for the uses and purposes provided in Part C of IDEA; and
 - b) A public agency administers the funds and property.

L. Reports and Records (§303.224)

1. MSDH ensures that it:
 - a) Makes reports in the form of and containing information that the Secretary may require; and
 - b) Keeps records and affords access to those records as the Secretary may find necessary to ensure compliance with the requirements of Part C of IDEA, the correctness and verification of reports, and the proper disbursement of funds provided under Part C of IDEA.

M. Prohibition Against Supplanting; Indirect Costs (§303.225)

1. The MSDH application provides satisfactory assurance that the Federal funds made available under section 643 of IDEA to the State:
 - a) Are not comingled with State funds; and
 - b) Are used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.
2. To meet the requirements stated above, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services

for infants and toddlers eligible under Part C of IDEA and their families must be equal to the total amount of State and local funds actually expended for early intervention services for these infants and toddlers and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for:

- a) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under Part C of IDEA; and
 - b) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.
3. MSDH under Part C of IDEA determines an indirect cost which is submitted annually within the EI grant for federal review and approval.
 4. When charging indirect costs, the MSDH may not charge rent, occupancy, or space maintenance costs directly to the Part C grant, unless those costs are specifically approved in advance by the Secretary.

N. Fiscal Control (§303.226)

1. MSDH ensures fiscal control and fund accounting procedures have been adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under Part C of IDEA.

O. Traditionally Underserved Groups (§303.227)

1. MSDH ensures that policies and practices have been adopted to ensure:
 - a) The traditionally underserved groups, including minority, low-income, homeless, rural families, urban families, infants and toddlers living on Indian reservations, infants and toddlers and their families being served under the Child Abuse Protection and Treatment Act (CAPTA), and infants and toddlers with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of Part C of IDEA; and
 - b) That these families have access to culturally competent services within their local geographical areas.

4. Description of Part C Services and Other Definitions (§303.4 – §303.37)

- A.** MSDH ensures the provision of early intervention services under Part C of IDEA to infants and toddlers with disabilities and their families in accordance with the provisions of Part C of IDEA through the First Steps Early Intervention Program (EIP). These

services are defined below and are consistent with Part C of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 CFR Part 303 for use in implementing First Steps EIP. Other applicable definitions from 34 CFR Part 303 are also defined included below.

1. **Act:** (§303.4) Act means **Individuals with Disabilities Education Act (IDEA)**, as amended. IDEA is a federal grant statute in which states may choose to participate, that provides financial assistance for special education and related services to meet the developmental needs of eligible infants and toddlers ages birth to three (3) under Part C of IDEA. IDEA also provides for Procedural Safeguards for all eligible children and their families.
2. **Assessment:** The ongoing procedures used by qualified personnel to identify:
 - a) The infant's or toddler's unique strengths and needs and the services appropriate to meet those needs;
 - b) The resources, priorities, and concerns of the family, and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability; and
 - c) The nature and extent of early intervention services that are needed by the infant or toddler and his or her family to meet the needs in a) and b) (above) throughout the period of the infant's or toddler's eligibility.
3. **Initial assessment:** Refers to the assessment of the infant or toddler and the family prior to the infant's or toddler's first Individualized Family Service Plan (IFSP) meeting, which must be completed within forty-five (45) calendar days from the time the lead agency or EI service programs/providers receives the referral of the infant or toddler.
4. **At-risk infant or toddler:** (§303.5) An at-risk infant or toddler means an individual under three years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual. An at-risk infant or toddler may include an infant or toddler who is at risk of experiencing developmental delays because of biological or environmental factors that can be identified (including low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, a history of abuse or neglect, and being directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure).
5. **Business Day:** A business day is defined as a working day that excludes weekends and holidays.

6. **Child:** (§303.6) Child means an individual under the age of six and may include an infant or toddler with a disability, as that term is defined in this section.
7. **Consent:** (§303.7) Consent means that:
- a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language, as defined in this section;
 - b) The parent understands and agrees in writing to the carrying out of the activity for which the parent's consent is sought, and the consent form describes that activity and lists the early intervention records, if any, that will be released and to whom they will be released;
 - c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
 - d) If the parent revokes consent, that revocation is not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked.).
8. **Council:** (§303.8) Council means the State Interagency Coordinating Council (SICC), appointed by the Governor of Mississippi, that meets the requirements of these policies and procedures.
9. **Day:** (§303.9) Day means a calendar day unless otherwise indicated.
10. **Developmental Delay:** (§303.10 and §303.111) Developmental delay, when used with respect to an infant or toddler residing in Mississippi, means:
- a) An infant or toddler who has not attained developmental milestones expected for the child's chronological age (adjusted for prematurity) in one or more of the following areas: cognitive, physical development (including vision and hearing), communication, social/emotional, or adaptive skills. The child must be experiencing:
 - (1) A 33% delay in one area of development or a 25% delay in two or more areas of development; or
 - (2) Score 2.0 standard deviations below the mean in one developmental area or 1.5 standard deviations below the mean in each of the two areas on the individually administered standardized instruments.
 - b) An infant or toddler who has a diagnosed physical or mental condition

that:

- (1) Has a high probability of resulting in developmental delay; and
- (2) Includes conditions such as chromosomal abnormalities; genetic, congenital/neonatal disorders, neuromuscular disorders; orthopedic impairments, autism, traumatic brain injury, seizure disorders or sensory impairments.

11. Early Intervention Service Program: (§303.11) Early Intervention Service Program (EI service program or EIS program) means an entity designated by the state lead agency (MSDH) for federal reporting under these policies and procedures. In Mississippi, First Steps Early Intervention Program (First Steps EIP) is the statewide early intervention service program under Part C of IDEA.

12. Early Intervention Service Provider: (§303.12) An Early Intervention service provider or an EI service provider means:

- a) An entity, whether public, private, or nonprofit, or an individual that provides early intervention services under Part C of IDEA, whether or not the entity or individual receives Federal funds under Part C of IDEA and may include, where appropriate, the lead agency and a public agency responsible for providing early intervention services to infants and toddlers with disabilities in Mississippi under Part C of IDEA. In Mississippi, such a provider is referred to as an Early Intervention service provider (EI service provider) and may be an agency or an individual hired by or under contract with an EI service provider that is responsible for the supervision and/or provision of early intervention services.
- b) An EI service provider is responsible for:
 - (1) Participating in the multidisciplinary Individualized Family Service Plan (IFSP) team's ongoing assessment of an infant or toddler with a disability and a family-directed assessment of the resources, priorities, and concerns of the infant's or toddler's family as related to the needs of the infant or toddler, in the development of integrated goals and outcomes of the IFSP;
 - (2) Providing early intervention services in accordance with the IFSP of the infant or toddler with a disability; and
 - (3) Consulting with and training parents and others regarding the

provision of the early intervention services described in the IFSP of the infant or toddler with a disability.

13. Early Intervention Services: (§303.13)

- a) Early intervention services (EI services) mean developmental services that:
 - (1) Are provided under public supervision;
 - (2) Are selected in collaboration with the parents;
 - (3) Are provided at no cost except, subject to §§303.520 and 303.521, where Federal and State law provides for a system of payments by families. Mississippi does not require deductibles, out-of-pocket costs for co-payments, or participation fees to parents.
 - (4) Are designed to meet the developmental needs of an infant and toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP team, in any one or more of the following areas, including:
 - (a) Physical development;
 - (b) Cognitive development;
 - (c) Communication development;
 - (d) Social or emotional development; or
 - (e) Adaptive development.
 - (5) Meet the standards in the state of Mississippi where the early intervention services are provided, including the requirements of Part C of IDEA;
 - (6) Include services identified in paragraph b) (1) through (17) of this section;
 - (7) Are provided by qualified personnel, as defined in §303.31, including the types of personnel listed in paragraph c) (1) through (13) of this section;
 - (8) To the maximum extent appropriate, are provided in natural environments, as defined in §303.26 and consistent with

§303.126 and §303.344(d)(ii); and

(9) Are provided in conformity with an IFSP adopted in accordance with 636 of IDEA and §303.20 of Part C of IDEA.

b) Types of early intervention services include the following services as defined in this section:

(1) Assistive technology device and service:

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

(b) Assistive technology service means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include:

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

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

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

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

(v) Training or technical assistance for an infant or toddler with disabilities or, if appropriate, the child's family; and

(vi) Training or technical assistance for professionals, including individuals providing education or rehabilitation services, or other individuals who provide services to, or are otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.

(2) Audiology Services includes:

(a) Identification of children with auditory impairment, using at-risk criteria and appropriate audiological screening techniques;

(b) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(c) Referral for medical and other services necessary for the habilitation or rehabilitation of infants and toddlers with disabilities who have an auditory impairment;

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

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

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

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

(4) Health services means services necessary to enable an otherwise eligible child to benefit from the other early intervention services under Part C of IDEA during the time that the child is eligible to receive early intervention

services.

(a) The term health services includes:

- (i) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and
- (ii) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(b) The term health services does not include services that are:

- (i) Surgical in nature, such as a cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus;
- (ii) Purely medical in nature, such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose; or
- (iii) Related to the implementation, optimization (e.g., mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant.

(a) Nothing in Part C of IDEA limits the right of an infant or toddler with a disability with a surgically implanted device (e.g., cochlear implant) to receive the early intervention services that are identified in the child's IFSP as being needed to meet the child's developmental outcomes.

(b) Nothing in Part C of IDEA prevents the EI service provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly;

- (c) Devices, such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps, necessary to control or treat a medical condition; and
 - (d) Medical-health services, such as immunizations and regular “well-baby” care, that are routinely recommended for all children.
- (5) Medical services means services provided by a licensed physician for diagnostic or evaluation purposes to determine a child's developmental status and need for early intervention services.
- (6) Nursing services include:
 - (a) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;
 - (b) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and
 - (c) Administration of medications, treatments, and regimens prescribed by a licensed physician.
- (7) Nutrition services include:
 - (a) Conducting individual assessments in:
 - (i) Nutritional history and dietary intake;
 - (ii) Anthropometric, biochemical, and clinical variables;
 - (iii) Feeding skills and feeding problems; and
 - (iv) Food habits and food preferences.
 - (b) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under Part C of IDEA based on the assessment findings in this subsection; and

- (c) Making referrals to appropriate community resources to carry out nutritional goals.
- (8) Occupational therapy includes services to address the functional needs of the infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include:
- (a) Identification, assessment, and intervention;
 - (b) Adaptation of the environment and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
 - (c) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.
- (9) Physical therapy includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include:
- (a) Screening, evaluation, and assessment of children to identify movement dysfunction;
 - (b) Obtaining, integrating and interpreting information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
 - (c) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.
- (10) Psychological services include:
- (a) Administering psychological and developmental tests and other assessment procedures;
 - (b) Interpreting assessment results;

- (c) Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and
 - (d) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.
- (11) Service Coordination has the meaning given the term in this section under service coordination services (see number **36**. listed below).
- (12) Sign Language and Cued Language Services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification) and providing sign and cued language interpretation.
- (13) Social Work Services include:
- (a) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
 - (b) Preparing a social or emotional developmental assessment of the infant or toddler, within the context of the family;
 - (c) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;
 - (d) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and
 - (e) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler

with a disability and the family to receive maximum benefit from early intervention services.

(14) Special Instruction includes:

- (a) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- (b) Curriculum planning, including the planned interaction of personnel, materials, and time and space that leads to achieving the outcomes in the IFSP for the infant and toddler with a disability;
- (c) Providing families with information, skills, and support related to enhancing the skill development of the child; and
- (e) Working with the infant or toddler with a disability to enhance the child's development.

(15) Speech-language pathology services include:

- (a) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal for specific disorders and delays in those skills;
- (b) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and
- (c) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

(16) Transportation and related costs includes the cost of travel and other costs that are necessary to enable an infant or toddler with a disability and the child's family to receive early intervention services.

- (17) Vision services means:
- (a) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;
 - (b) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
 - (c) Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

c) Qualified Personnel: (303.13(c)) The following are the types of qualified personnel who provide early intervention services under Part C of IDEA:

- (1) Audiologists;
- (2) Family therapists;
- (3) Nurses;
- (4) Occupational therapists;
- (5) Orientation and mobility specialists;
- (6) Pediatricians and other physicians for diagnostic and evaluation purposes;
- (7) Physical therapists;
- (8) Psychologists;
- (9) Registered dietitians;
- (10) Social workers;
- (11) Special educators, including teachers of children with hearing impairments, including deafness and teachers of children with visual impairments, including blindness;
- (12) Speech and language pathologists; and

- (13) Vision specialists, including Ophthalmologists and Optometrists.
- d) Other services: (§303.13(d))
 - (1) The services and personnel identified and defined in this section do not comprise exhaustive lists of the types of services that may constitute early intervention services or the types of qualified personnel that may provide early intervention services; and
 - (2) Nothing in this section prohibits the identification in the IFSP of another type of service, as an early intervention services provided, that the service meets the criteria identified in this section or of another type of personnel that may provide early intervention services in accordance with Part C of IDEA, provided such persons meet the requirements in these policies and procedures. (§303.13)
- 14. Elementary School:** (§303.14) Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education as determined under State law.
- 15. First Steps Early Intervention Program:** The legislated program under the Mississippi State Department of Health that provides the early intervention services under Part C of IDEA in the state of Mississippi and will hereafter be referred to as First Steps EIP.
- 16. Free Appropriate Public Education (FAPE):** (§303.15) Free appropriate public education or FAPE, as used in these policies and procedures, means special education and related services that:
 - a) Are provided at public expense, under public supervision and direction, and without charge;
 - b) Meet the standards of the State Educational Agency (SEA), including the requirements of Part B of IDEA;
 - c) Include an appropriate preschool, elementary school, or secondary school education in Mississippi; and
 - d) Are provided in conformity with an Individualized Education Program (IEP) that meets the requirements under regulations for Part B of IDEA.
- 17. Homeless children:** (§303.17) Homeless children means children who

meet the definition given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431.

- 18. Include or Including:** (§303.18) Include or including means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.
- 19. Indian; Indian tribe:** (§303.19)
 - a) Means an individual who is a member of an Indian tribe.
 - b) Indian tribe means any Federal or State Indian tribe, band, Rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S. C. 1601 et seq.
 - c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian Tribe that is not listed in the Federal Registry list of Indian entities recognized as eligible to receive services from the United States, published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.
- 20. Individualized Family Service Plan (IFSP):** (§303.20) Individualized Family Service Plan or IFSP means a written plan for providing early intervention services to an infant or toddler with a disability under this part and the infant's or toddler's family that:
 - a) Is based on the evaluation and assessment described in §303.321;
 - b) Includes the content specified in §303.344;
 - c) Is implemented, as soon as possible, once parental consent for the early intervention services in the IFSP is obtained (consistent with §303.420); and
 - d) Is developed in accordance with the IFSP procedures in §§303.342, §303.343, and §303.345.
- 21. Infant or Toddler with a Disability:** (§303.21) An infant or toddler with a disability means an individual under three years of age who needs early intervention services because the individual:
 - a) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- (1) Cognitive development;
 - (2) Physical development, including vision and hearing;
 - (3) Communication development;
 - (4) Social or emotional development; or
 - (5) Adaptive development; or
- b) Has a diagnosed physical or mental condition that—
- (1) Has a high probability of resulting in developmental delay; and
 - (2) 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.

22. Lead Agency: (§303.22) The lead agency means the agency designated by the Mississippi State Government that receives funds under section 643 of the Act to administer the State’s responsibilities under part C of IDEA. The **Mississippi State Department of Health (MSDH)** is the agency designated to implement the early intervention program in Mississippi.

23. Local Education Agency: (§303.23)

- a) General. Local Educational Agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. In Mississippi, the LEA is the local public school district in which the child resides.
- b) Educational service agency, defined as a regional public institution or multiservice agency includes the following:
- (1) Authorized by State law to develop, manage, and provide services or programs to LEAs; and
 - (2) Recognized as an administrative agency for purposes of the

provision of special education and related services provided within public elementary schools and secondary schools of the State.

- c) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public charter school that is established as an LEA under State law.
- d) Entities that meet the definition of Intermediate Educational Unit or IEU in IDEA as in effect prior to June 4, 1997. Under that definition, an Intermediate Educational Unit or IEU means any public authority other than LEA that:
 - (1) Is under the general supervision of a State educational agency;
 - (2) Is established by State law for the purpose of providing FAPE on a regional basis; and
 - (3) Provides special education and related services to children with disabilities within the State.
- e) Bureau of Indian Education (BIE)-funded schools. The term includes an elementary school or secondary school funded by the BIE, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law; and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under IDEA with the smallest student population.

24. Local Health Districts: Refers to the nine local public health districts within the Mississippi State Department of Health (MSDH), which administers the First Steps Early Intervention Program (EIP) statewide.

25. Mississippi Department of Education (MDE): The state lead agency in Mississippi for receiving federal funds to administer the State's responsibilities under Part B of IDEA for eligible children ages three (3) to twenty-one (21).

26. Multidisciplinary: (§303.24) 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).

27. Native Language: (§303.25)

a) Native language, when used with respect to an individual who is limited in English proficiency or LEP (Limited English Proficient), as that term is defined in 602(18) of IDEA, means:

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except for provided in paragraph a)(2) (below) in 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 primary mode of communication that is normally used by the individual (such as sign language, Braille, or oral communication).

28. Natural Environments: (§303.26) Natural environments means settings that are natural or typical for a same-aged infant or toddler without a disability, may include the home or community settings, and must be consistent with the provisions of these policies and procedures.

29. Parent: (§303.27)

a) Parent means:

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make early intervention, educational, health or developmental decisions for the child, but not the State if the child is a ward of the State;

(4) An individual acting in the place of a biological or adoptive

parent, including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) A surrogate parent who has been appointed in accordance with §303.344 or section 639(a)(5) of IDEA.

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

- 30. Parent Training and Information Center:** (§303.28) Parent training and information center means a center assisted under section 671 or 672 of IDEA. In Mississippi, this is the Mississippi Parent Training and Information Center (MSPTI), which serves parents and children statewide.
- 31. Personally Identifiable Information (PII):** (§303.29) Personally identifiable information (PII) means personally identifiable information as defined in 34 CFR 99.3, as amended, except that the term "student" in the definition of personally identifiable information in 34 CFR 99.3 means "child" as used in under Part C of IDEA and any reference to "school" means "EIS provider" (EI service provider) as used in Part C of IDEA.
- 32. Public Agency:** (§303.30) Public agency, as used under Part C of IDEA, means the lead agency and any other agency or political subdivision of the State. In Mississippi, the lead agency is the Mississippi State Department of Health (MSDH).
- 33. Qualified Personnel:** (§303.31) Qualified personnel means personnel who have met the State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.
- 34. Scientifically Based Research:** (§303.32) Scientifically based research has the

meaning given the term in section 9101(37) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) to the regulations under Part C of the Act, any referenced to “education activities and programs” refers to “early intervention services.”

35. Secretary: (§303.33) Secretary means the Secretary of Education.

36. Service Coordination Services: (§303.34)

- a) General. As used in Part C of IDEA, service coordination services mean services provided by a **service coordinator** to assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including procedural safeguards, required under Part C of IDEA.
- b) Each infant or toddler with a disability and the child’s family must be provided with one service coordinator who is responsible for:
 - (1) Coordinating all services required under this part across agency lines; and
 - (2) Serving as the single point of contact for carrying out the activities described in this section.
- c) Service Coordination is an active, ongoing process that involves:
 - (1) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under Part C of IDEA; and
 - (2) Coordinating the other services identified in the IFSP under §303.344(e) that are needed by, or are being provided to, the infant or toddler with a disability and that child’s family.
- d) Specific service coordination services include:
 - (1) Assisting parents of infants and toddlers with disabilities in identifying and obtaining access to needed EI services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families;
 - (2) Coordinating the provision of early intervention services and other services, such as educational, social, and medical services that are not provided for diagnostic or evaluative purposes, that the child needs or is being provided;
 - (3) Coordinating evaluations and assessments;

- (4) Facilitating and participating in the development, review, and evaluation of IFSPs;
 - (5) Conducting referral and other activities to assist families in identifying available EI service providers;
 - (6) Coordinating, facilitating, and monitoring the delivery of services required under Part C of IDEA to ensure that the services are provided in a timely manner;
 - (7) Conducting follow-up activities to determine that appropriate Part C services are being provided;
 - (8) Informing families of their rights and procedural safeguards, as set forth in these policies and procedures and related resources;
 - (9) Coordinating the funding sources for services required in the IFSP under Part C of IDEA; and
 - (10) Facilitating the development of a transition plan to preschool, school, or if appropriate, to other services.
- (e) The MSDH or an EI service program's/provider's use of the term service coordination or service coordination services does not preclude characterization of the services as case manager or any other service that is covered by another payor of last resort, including Title XIX of the Social Security Act-Medicaid, for purposes of claims in compliance with the requirements of policies and procedures related to payor of last resort provisions. (§303.34(c))

37. State: (§303.35) Except as provided in these policies and procedures, regarding State allotments under Part C of IDEA, State means each of the fifty (50) States, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdiction of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

38. State Educational Agency: (§303.36)

- (a) State Educational Agency or SEA means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or if there is no such officer or agency, and officer or agency designated by the Governor or by State law.
- (b) The term includes the agency that receives funds under sections 611

and 619 of the Act to administer the State's responsibilities under Part B of IDEA. In Mississippi, the SEA is the Mississippi Department of Education (MDE).

39. Ward of the State: (§303.37)

- a) General – Subject to the exception* below, ward of the State means a child who, as determined by Mississippi, is:
 - (1) A foster child;
 - (2) A ward of the State of Mississippi; and
 - (3) In the custody of a public child welfare agency.

*Exception – a foster child who has a foster parent who meets the definition of a parent in this section.

5. Child Find, Evaluations and Assessments, and Individualized Family Service Plans

A. General (§303.300)

- 1. Mississippi's 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 that 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 that ensure compliance with the timeline requirements 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.

B. Pre-Referral Procedures - Public Awareness Program and Child Find System

1. Public Awareness Program – Information for Parents (§303.301)

- a) Preparation and Dissemination. In accordance with §303.116, First Steps EIP ensures a public awareness program that:
 - (1) Prepares information on the availability of early intervention services under this part, and other services, as described in b) (below) of this section;
 - (2) Disseminates to all primary referral sources, especially hospitals and physicians, the information to be given to parents of infants and toddlers, especially parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications; and
 - (3) Adopts procedures for assisting the primary referral sources described in §303.303(c) in disseminating the information described in b) (below) in this section to parents of infants and toddlers with disabilities.
- b) Information to be provided. The information required to be prepared and disseminated in 1. a) (above) includes:
 - (1) A description of the availability of early intervention services under Part C of IDEA;
 - (2) A description of the child find system and how to refer an infant or toddler under the age of three for an evaluation/assessment or early intervention services; and
 - (3) A Central Directory, as described in §303.117.
- c) Information specific to toddlers with disabilities. Each public awareness program includes a requirement that MSDH provide a method for informing parents of toddlers with disabilities of the availability of services under section 619 of IDEA not fewer than ninety (90) days prior to the toddler's third birthday.

2. Comprehensive Child Find System (§303.302)

- b) General. MSDH includes a comprehensive child find system that:

- (1) Is consistent with Part B of IDEA (see 34 CFR 300.111);
 - (2) Includes a system for making referrals to MSDH under Part C of IDEA that:
 - (a) Includes timelines; and
 - (b) Provides for participation by the primary referral sources described in §303.303(c);
 - (3) Ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for early intervention services under Part C of IDEA that will reduce the need for future services; and
 - (4) Meets the requirements in paragraphs b) and c) of §303.302 and §§303.303, 303.310, 303.320, and 303.321.
- c) Scope of Child Find. MSDH, as lead agency and part of the child find system, ensures that:
- (1) All infants and toddlers with disabilities in Mississippi who are eligible for early intervention services under Part C of IDEA are identified, located, and evaluated, including:
 - (a) Indian infants and toddlers with disabilities residing on a reservation geographically located in Mississippi.
 - (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 as at-risk infants and toddlers listed in §303.303(b).
 - (2) An effective method is developed and implemented to identify children who are in need of early intervention services.
- d) Coordination. MSDH, as lead agency, with the assistance of the Council, as defined in §303.8, ensures that the child find system under Part C of IDEA:
- (1) 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 Part C of IDEA, including Indian tribes that

receive payments under Part C of IDEA, and other Indian tribes, as appropriate; and

- (2) Is coordinated with the efforts of the:
- (a) Programs authorized under Part B of IDEA;
 - (b) 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));
 - (c) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under Title XIX of the Social Security Act (42 U.S.C. 1396(a)(43) and 1396(a)(4)(B));
 - (d) Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
 - (e) Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
 - (f) Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
 - (g) Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106a);
 - (h) Child care programs in Mississippi;
 - (i) Programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
 - (j) Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
 - (k) Children's Health Insurance Program (CHIP) authorized under Title XI of the Social Security Act (42 U.S.C.

1397aa et seq.).

- (3) MSDH, with the advice and assistance of the State Interagency Coordinating Council (SICC), takes steps to ensure that:
 - (a) There will not be unnecessary duplication of effort by the programs identified in paragraph (2) (a) through (k) (above) in this section; and
 - (b) The lead agency makes use of the resources available through each public agency and EI service programs/providers in Mississippi to implement the child find system in an effective manner.
 - (i) The Birth Defects and other Special Needs Registries, including establishing links with appropriate public or community based organizations, services and personnel, are used for the purpose of:
 - (a) Identifying and evaluating/assessing at-risk infants and toddlers registered with the State Birth Defects, Genetics and Newborn Hearing Screening Registry; and
 - (b) Making referrals of infants and toddlers identified as potentially eligible for First Steps EIP.

C. Referral Procedures (§303.303)

- 1. General. MSDH's child find system described in §303.302 includes the State's procedures for use by primary referral sources for referring a child under the age of three (3) to the Part C of IDEA program.
 - a) The required procedures:
 - (1) Provide for referring a child, as soon as possible, but in no case more than seven (7) days, after the child has been identified; and
 - (2) Meet the requirements in paragraph b) (below).
 - b) A statewide toll free number connects to:
 - (1) A central point of entry, the Central Referral Unit (CRU), with access to an interpreter, when needed, for referrals to First

Steps EIP. The referral is logged in at CRU and assigned to a Service Coordinator (SC) in the public health district where the infant or toddler resides.

- (a) The District Coordinator (DC) assigns the referral to a Service Coordinator;
- (b) The Service Coordinator responds timely to the referral (within two (2) working days or the reason is otherwise documented);
- (c) Explains the First Steps EIP processes, available services, procedural safeguards and systems of payment during the initial referral contact; and
- (d) Ensures timely screening, initial evaluation and/or assessment to determine eligibility, and conduct an Individualized Family Service Plan (IFSP) meeting within forty-five (45) days of receipt of the referral.

2. Referral of specific at-risk infants and toddlers. First Steps EIP ensures a system for the referral of specific at-risk infants and toddlers. The procedures required in paragraphs a) and b) (above) provide for requiring the referral of a child under the age of three (3) whom:

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

3. Primary Referral Sources. Primary referral sources, as used in Part C of IDEA, include:

- a) Hospitals, including prenatal and postnatal care facilities;
- b) Physicians;
- c) Parents, including parents of infants and toddlers;
- d) Parents, including parents of the infants and toddlers;
- e) Child care programs and early learning programs;
- f) LEAs and schools;
- g) Public Health facilities;
- h) Other public health or social service agencies;
- i) Other clinics and health care providers;
- j) Public agencies and staff in the child welfare system, including child protective services and foster care;
- k) Homeless family shelters; and
- l) Domestic violence shelters and agencies.

D. Post-Referral Procedures – Screenings, Evaluations, and Assessments

1. Post-Referral Timeline (45 days) (§303.310)

- a) With the exceptions stated below, any screening under §303.320, 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, with parental consent, within forty-five (45) days from the date the Early Intervention System (EIS) receives the referral of the child.
- b) The forty-five (45) day timeline described in paragraph a) (above) does not apply for any period when:
 - (1) The child or the parent is unavailable to complete the screening, if applicable, initial evaluation, the initial assessments of the infant or toddler 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 screening, if applicable, initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the First Steps EIP or the EI service program/provider to obtain parental consent.
- c) First Steps EIP ensures that, in the event the circumstances described in the paragraph b) (above) exist, the Service Coordinator:
 - (1) Documents in the child’s early intervention record the exceptional family circumstances or repeated attempts to obtain parental consent;
 - (2) Completes the screening, if applicable, 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 the paragraph (1) (above) no longer exist or parental consent is obtained for the screening, initial evaluation, and/or the initial assessment of the child; and
 - (3) Develops and implements an interim IFSP, to the extent appropriate and consistent with §303.345.
- d) The initial family assessment, if applicable, must be conducted within the forty-five (45) day timeline in the first paragraph of this section, if the parent concurs and even if other family members are unavailable.

E. Screening Procedures (§303.320)

1. General. First Steps EIP has adopted procedures, consistent with the requirements of this section to screen children under the age of three who have been referred to the Part C of IDEA program to determine whether they are suspected of having a disability under Part C. Prior to First Steps EIP screening a child, a service coordinator:
 - a) Provides the parent notice under §303.421 of its intent to screen the child to identify whether the child is suspected of having a disability and include in the notice a description of the parent's right to request an evaluation under §303.321 at any time during the screening process; and
 - b) Obtains parental consent as required in §303.420(a)(1) before conducting the screening procedures.
 - (1) If the parent consents to the screening, or other available information indicates that the child is:
 - (a) Suspected of having a disability: After notice is provided under §303.421 and, once parental consent is obtained as required in §303.420, an evaluation and assessment of the child is conducted under §303.321; or
 - (b) Not suspected of having a disability: First Steps EIP or the EI service program/provider ensures that notice of the determination is provided to the parent under §303.421, and that the notice describes the parent's right to request an evaluation and/or the option of the infant or toddler being placed in an inactive or a tracking status, where he or she is monitored periodically for developmental progress.
 - (2) If the parent of the child requests and consents to an evaluation at any time during the screening process, an evaluation of the child must be conducted under §303.321, even if First Steps EIP or the EI service program/provider has determined under paragraph 1. b) (1) (b) (above) that the infant or toddler is not suspected of having a disability.
2. Definition of Screening Procedures. Screening procedures means:
 - a) Activities under paragraph 1. a) and 1. b) of this section that are carried out by, or under the supervision of MSDH/First Steps EIP or an EI service program/provider, to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention

services; and

- b) Includes administration of appropriate instruments by personnel trained to administer those instruments.

3. Condition for evaluation or early intervention services. For every child under the age of three (3) who is referred to the Part C of IDEA program or screened in accordance with paragraph 1. of this section, the lead agency is not required to:

- a) Provide an evaluation of the child under §303.321 unless the child is suspected of having a disability or the parent requests an evaluation under 1. b) (2) (above) of this section; or
- b) Make early intervention services available under this part to the child unless a determination is made that the child meets the definition of an infant or toddler with a disability under §303.21.

F. Evaluation of the Child and Assessment of the Child and Family (§303.321)

1. General. MSDH ensures that, subject to obtaining parental consent in accordance with §303.420(a)(2), each child under the age of three (3), who is referred for evaluation or early intervention services under Part C of IDEA and suspected of having a disability, receives:

- a) A timely, comprehensive, multidisciplinary evaluation of the child in accordance with this section unless eligibility is established under 2. d) (1) (below) under medical and other records to establish eligibility as defined in 2. D) (1) (below);
- b) If the child is determined eligible as an infant or toddler with a disability as defined in §303.21:

- (1) A multidisciplinary assessment of the unique strengths and needs of that infant or toddler and the identification of services appropriate to meet those needs;
- (2) A family-directed assessment, with parental consent, 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 may occur simultaneously with the evaluation, provided that the requirements of §303.321(b) are met.

2. As used in Part C of IDEA: (§303.321)

- a) Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under Part C of IDEA, consistent with the definition of an 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 Part C of IDEA;
- b) Assessment means the ongoing procedures used by qualified personnel to identify a 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 Part C of IDEA, and includes the assessment of the child, and the assessment of the infant's or toddler's family, consistent with §303.321.
- c) An Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.
- d) Medical records to establish eligibility.
 - (1) A child's medical and other records may be used to establish eligibility, without conducting an evaluation of the child, under Part C of IDEA, 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 eligibility under Part C of IDEA is established under this paragraph, First Steps EIP or an EI service program/provider must conduct assessments of the child and family in accordance with paragraph F. 2. c) (above) in this section.
 - (2) Qualified personnel may use informed clinical opinion when conducting an evaluation and assessment of the child. Additionally, First Steps EIP must ensure that informed clinical opinion may be used as an independent basis to establish the 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 the evaluation instruments used to establish eligibility under the paragraph e) (below) in this section.
 - (3) All evaluations and assessments of the child and his or her family must be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.
 - (4) Unless clearly not feasible to do so, all evaluations and assessments of an infant or toddler must be conducted in the native language of the infant or toddler, in accordance with the

definition of native language in §303.25.

- (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.

e) 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 Part C of IDEA. Procedures must include:

- (1) Administering two evaluation tools, one of which is a standardized 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 in §303.21(a)(1);
- (4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs; and
- (5) Reviewing medical, educational, or other records.

f) 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 in paragraph e)(1) through (5) (above);
 - (b) Personal observations of the child; and
 - (c) The identification of the child's needs in each of the developmental areas 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, including the supports and services necessary to enhance the family's capacity to meet the developmental needs of the 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 relating to enhancing the child's development.
- g) Once eligibility is established, the EIP Service Coordinator, on an on-going basis, provides the following services:
- (1) Reviews the child and family rights/procedural safeguards;
 - (2) Compiles additional information, as needed, to prepare for the IFSP meeting;
 - (3) Reviews Mississippi's System of Payments and obtains signed parental permission to use or decline public or private insurance for payment of EI services; and
 - (4) Convenes the IFSP meeting within forty-five (45) days of initial referral for early intervention services.

G. Determination that a Child is Not Eligible (§303.322)

1. If, based on the evaluation conducted under §303.321, MSDH determines that a child is not eligible for early intervention services under Part C of IDEA, MSDH 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 filing a written state complaint, requesting mediation, or requesting a due process hearing.

H. Individualized Family Service Plan (IFSP)

1. Individualized Family Service Plan (IFSP) (§303.340)

- a) General. For each infant or toddler with a disability, First Steps EIP ensures the development, review, and implementation of an Individualized Family Service Plan (IFSP) developed by a multidisciplinary team, which includes the parent, that:

- (1) Is consistent with the term (IFSP) in §303.20;
- (2) Meets the requirements in §303.342 through §303.346; and
- (3) Is documented on the IFSP form required by the First Steps EIP.

2. Procedures for IFSP development, review, and evaluation (§303.342)

- a) Initial Meeting to Develop the IFSP – Timelines: For a child referred to MSDH and determined eligible under Part C of IDEA as an infant or toddler with a disability, a meeting to develop the initial IFSP must be conducted within the forty-five (45) day time period described in §303.310. The meeting may be combined with the initial evaluation and assessment.
- 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.
 - (a) The purpose of the periodic review is to determine:
 - (i) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and
 - (ii) 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 other 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 the child and his or her family. The results of any current evaluations and other information available from the 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) The IFSP meetings must be accessible to the parents and 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 parents, and prior written notices provided to the parents and other participants early enough before the meeting date to ensure that the parents will be able to attend.
- e) Parental Consent:
- (1) The Service Coordinator must ensure that the contents of the IFSP are fully explained to the parents;
 - (2) 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; and
 - (3) Each early intervention service must be provided, as soon as possible, but no later than thirty (30) business days after the parent provides consent for the service(s), as required in §303.344(f)(1).

3. IFSP Team Meeting and Periodic Reviews (§303.343)

- a) Initial and Annual Meeting.
- (1) Each initial meeting and each annual IFSP team meeting to evaluate the IFSP must include the following participants:
 - (a) The parent(s) of the child;
 - (b) Other family members, as requested by the parent, if feasible to do so;
 - (c) An advocate or person outside of the family, if the parent requests that the person participate;
 - (d) The Service Coordinator designated by the First Steps EIP to be responsible for implementing the IFSP;
 - (e) A person or persons directly involved in conducting the evaluations and assessments in §303.321; and

- (f) As appropriate, persons who will be providing early intervention services under Part C of IDEA to the child or family.
- (2) If a person listed above in paragraph 3. a) (1) (a) through (f) (above) in 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 telephone conference call;
 - (b) Having a knowledgeable authorized representative attend the meeting; and/or
 - (c) Making pertinent records available at the meeting.
- b) Periodic review. Each periodic review under §303.342(b) must provide for the participation of the persons in 3. a) (1) (a) through (d) (above). If conditions warrant, provisions must be made for the participation of other representatives other than those identified in paragraph 3. a) (1) (a) through (d) (above).

4. Content of an IFSP (§303.344)

- a) Information about the child's status: The IFSP must include information about the infant's or toddler'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 outcomes expected to be achieved for the child (including pre-literacy and language skills, as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine:
 - (1) The degree to which progress toward achieving the results or outcomes identified in the IFSP is being made; and

- (2) Whether modifications or revisions of the expected results or outcomes, or early intervention services identified in the IFSP are necessary.
- d) Early Intervention Services: 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 4. c) (1) and (2) (above), including:
- (1) The length, duration, frequency, intensity, and method of delivering the early intervention services;
 - (2) Natural environments and/or appropriate settings:
 - (a) A statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, consistent with §§303.13(a)(8), §303.26 and §303.126, or, subject to 4. d) (b) (below), a justification as to why an early intervention service will not be provided in a natural environment; and/or
 - (b) The determination of the appropriate settings for providing early intervention services to an infant or toddler with a disability, including any justification for not providing a particular early intervention service in the natural environment for that infant or toddler with a disability and service, must be:
 - (i) Made by the IFSP Team, which includes the parent and other team members;
 - (ii) Consistent with the provisions in §303.13(a)(8), §303.26, and §303.126; and
 - (iii) Based on the child's outcomes that are identified by the IFSP Team §303.344(c)(4) and
 - (3) The location of the early intervention services; and
 - (4) The payment arrangements, if any.
- e) As used in paragraph d) (1) (above):

- (1) Frequency and intensity mean the number of days or sessions that a service will be provided, and whether the service is provided on an individual or group basis;
 - (2) Method means how a service is provided;
 - (3) 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;
 - (4) 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; and
 - (5) Location, as used in 4. D) (4) above, means the actual place or places where a service will be provided.
- f) Anticipated Start Date: The anticipated start is thirty (30) business days from the date the parent gives written consent to implement the IFSP.
- g) Other services: To the extent appropriate, the IFSP must also:
- (1) Identify medical and other services that the child and family need or are receiving through other sources, but that are neither required nor funded under Part C of IDEA; and
 - (2) If those services are not currently being provided, include a description of the steps the Service Coordinator and/or family may take to assist the child and family in securing those other services.
- h) Dates and Duration of Services: The IFSP must include:
- (1) The anticipated start date for the initiation of each early intervention service in d) (e) (4) and f) (above) must be as soon as possible, but no later than thirty (30) business days, after the parent consents to the service(s), as required in §303.342(e) and §303.420(a)(3); and
 - (2) The anticipated duration of each service.
- i) Service Coordinator:
- (1) The IFSP includes the name of the Service Coordinator who is:

- (a) Qualified to carry out all applicable responsibilities under Part C of IDEA;
 - (b) Responsible for implementing the early intervention services identified in the infant's or toddler's IFSP, including transition services; and
 - (c) Coordinates with other agencies and persons.
- (2) In meeting the requirements of Part C of IDEA, the term "profession" includes "service coordination".

J) 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 IDEA, to the extent that those services are appropriate; or
 - (b) Other appropriate services.
- (2) The steps required in the paragraph above 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 toddler for changes in service delivery, including steps to help the toddler adjust to, and function in, a new setting;
 - (c) Identification of transition services and other activities that the IFSP team determines are necessary to support the transition of the toddler;
 - (d) Confirmation that child find information about the toddler has been transmitted to MDE and the LEA or other relevant agency, in accordance with §303.209(b). Mississippi does not have an opt-out policy for a child find referral to MDE/LEA for children potentially eligible for Part B services.
 - (e) With the obtaining of written parental consent, 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(s) and assessment(s) of the toddler and his or her family and the most recent IFSP developed, is sent to the LEA in accordance with §303.340 through §303.345.

5. Interim IFSP (§303.345)

- a) An interim IFSP may be developed for early intervention services to commence before completion of the evaluation and assessments in §303.321. An interim IFSP may be developed if the following conditions are met:
 - (1) Parental consent is obtained;
 - (2) An interim IFSP is developed and includes:
 - (a) 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
 - (b) The early intervention services that have been determined to be needed immediately by the child and his or her family.
 - (3) Evaluations, assessments and the initial IFSP are completed within the forty-five (45) day timeline.

6. Responsibility and Accountability: (§303.346)

- a) Each public agency and EI service program/provider, which 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 IDEA does not require that any public agency or EI service program/provider be held accountable if an eligible child does not achieve the growth projected in the child's IFSP.

5. Procedural Safeguards

A. General Responsibility of the Lead Agency for Procedural Safeguards (§303.400)

1. Mississippi State Department of Health (MSDH), as lead agency, ensures the establishment and implementation of policies and procedural safeguards that meet the requirements of Part C of IDEA, including provisions on:
 - a) Confidentiality in §303.401 through §303.417;
 - b) Parental consent and notice in §303.420 and §303.421;
 - c) Surrogate parents in §303.422; and
 - d) Dispute resolution procedures in §303.430.
2. MSDH ensures the effective implementation of the safeguards by each participating agency, including MSDH/First Steps EIP and EI service programs/providers, in the statewide system that is involved in the provision of early intervention services under Part C of IDEA; and
3. MSDH makes available to parents an initial copy of the child's early intervention record, at no cost to the parents.

Confidentiality of Personally Identifiable Information and Early Intervention Records

A. Confidentiality and Opportunity to Examine Records (§303.401)

1. General. Mississippi ensures that the parents of a child referred under Part C of IDEA are afforded the right to confidentiality of personally identifiable information (PII) including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.
2. Confidentiality Procedures. First Steps EIP, as required by Part C of IDEA, regulations §303.401 through §303.417, ensures protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to Part C of IDEA by the Secretary and by participating agencies, including MSDH/First Steps EIP and EI service programs/providers, in accordance with protections under the Federal Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. MSDH has procedures in effect to ensure that:
 - a) Participating agencies, including MSDH/First Steps EIP and EI service programs/providers, comply with the Part C confidentiality procedures in §303.401 through §303.417; and

b) The parents of infants or toddlers who are referred to, or receive services under Part C of IDEA, are afforded the opportunity to inspect and review all Part C of IDEA early intervention records about their child and family that are collected, maintained, or used under Part C of IDEA, including records relating to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under Part C of IDEA.

3. Applicability and Timeframe of Procedures. The confidentiality procedures described in this section apply to the personally identifiable information of a child and the child's family that—

a) Is contained in the early intervention records that are collected, used, or maintained under Part C of IDEA by the MSDH/First Steps EIP or an EI service program/provider; and

b) Applies from the point in time when the child is referred for early intervention services under Part C of IDEA until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and state laws in Mississippi.

4. Disclosure information.

a) Subject to b) and c) (below), MSDH discloses to Mississippi Department of Education (MDE) and the local education agency (LEA), which is the local school district where the child resides, in accordance with §303.209 (b)(1)(i) and (b)(1)(ii), the following personally identifiable information under IDEA:

(1) A child's name;

(2) A child's date of birth;

(3) Parent contact information, which includes parents' names, address, and telephone numbers;

(4) Additional information disclosed to MDE and the LEA includes the name of the child's First Steps EIP Service Coordinator and his or her contact information.

- b) The information described in **A. 4. a)** (above) is needed to enable MSDH, MDE and the LEA under Part B of IDEA, to identify all children potentially eligible for services under §303.211 and Part B of IDEA.
 - c) Personally identifiable information described in **A. 4. a)** (1) through (3) (above) is shared electronically between First Steps EIP and MDE. A child find letter is sent by MSDH to the LEA in the area where the child with a disability resides.
5. Mississippi has not adopted a policy for families to “opt-out” of the transmission of information described in this section. All potentially eligible children in an active status with and IFSP in place are referred to MDE at twenty-seven (27) months of age.

B. Definitions (§303.403)

1. The following definitions apply to §303.402 through §303.417, in addition to the definition of personally identifiable information in §303.29 and disclosure in 34 CFR 99.3:
- a) Destruction means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under §303.29.
 - b) Early Intervention records mean all records regarding a child that are required to be collected, maintained, or used under Part C of IDEA and its implementing regulations.
 - c) Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of IDEA and the regulations in 34 CFR Part 303 with respect to a particular child. A participating agency includes the MSDH, and EIS providers (EI service programs/providers) and any individual or entity that provides any Part C services, including service coordination, evaluations and assessments, and other Part C of IDEA services. This does not include primary referral sources, or public agencies (such as the state Medicaid or CHIP program) or private entities (such as private insurance companies) that act solely as funding sources for Part C services.

C. Notice to Parents (§303.404)

1. MSDH gives notice when a child is referred under Part C of IDEA that is adequate to fully inform parents about the requirements in §303.402, including:
 - a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods that MSDH uses in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
 - b) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information;
 - c) A description of all the rights of parents and children regarding this information, including their rights under Part C of IDEA confidentiality provisions in §303.401 through §303.417; and
 - d) A description of the extent that the notice is provided in the native languages of the various population groups in Mississippi.

D. Access Rights (§303.405)

1. Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under Part C of IDEA. The MSDH must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §303.430(d) and §303.435 through §303.439, and in no case more than ten (10) days after the request has been made.
2. The right to inspect and review early intervention records under this section includes:
 - a) The right to a response from MSDH or the participating agency to reasonable requests for explanations and interpretations of the early intervention records;
 - b) The right to request that MSDH or the participating agency provide copies of the early intervention records containing the information, if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

- c) The right for a representative of the parent to inspect and review the early intervention records.
3. MSDH and a participating agency may presume that the parent has authority to inspect and review records relating to his or her child unless MSDH has been provided documentation that the parent does not have the authority under applicable Mississippi state law governing matters such as custody, foster care, guardianship, separation, and divorce.
4. Any applicable judicial orders are filed in the child's EI record.

E. Record of Access (§303.406)

1. MSDH and each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of IDEA, except access by parents and authorized representatives and employees of MSDH or the participating agency, including the name of the party, the date access was given and the purpose for which the party is authorized to use the early intervention records.

F. Records on More than One Child (§303.407)

1. MSDH requires a separate record for each child receiving early intervention services and does not allow any personal identifying information of another child to be placed in the child's record. However, if any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

G. List of Types and Locations of Information (§303.408)

1. MSDH or each participating agency must provide parents, upon request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

H. Fees for Records (§303.409)

1. MSDH and each participating agency may charge a fee for copies of records that are made for parents under Part C of IDEA, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in 3. (below).
2. MSDH or a participating agency may not charge a fee to search for or to retrieve information under Part C of IDEA.

3. MSDH or a participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible, after each IFSP meeting.

I. Amendment of Records at Parent Request (§303.410)

1. A parent, who believes that information in the early intervention records collected, maintained or used under Part C of IDEA is inaccurate, misleading, or violates the privacy or other rights of the child or parent, may request the MSDH or the participating agency that maintains the information to amend the information.
2. MSDH or the participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
3. If MSDH or the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of their right to a hearing under §303.411.

J. Opportunity for a Hearing (§303.411)

1. MSDH or the participating agency must, upon request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention record to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in §303.430(d)(1), provided that such hearing procedures meet the requirements of the hearing procedures in §303.413, or may request a hearing directly under Mississippi's procedures in §303.413 (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).

K. Result of Hearing (§303.412)

1. If, as a result of the hearing, MSDH or the participating agency, decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must amend the information accordingly and inform the parent in writing.
2. If, as a result of the hearing, MSDH decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the

information or setting forth any reasons for disagreeing with the decision of the agency.

3. Any explanation placed in the early intervention records of the child under this section must—
 - a) Be maintained by MSDH, as part of the early intervention records of the child as long as the record or contested portion is maintained by MSDH; and
 - b) If the early intervention records of the child or the contested portion are disclosed by MSDH, to any party, the explanation must also be disclosed to the party.

L. Hearing Procedures (§303.413)

1. A hearing held under §303.411 must be conducted according to the procedures under 34 CFR 99.22.

M. Consent Prior to Disclosure or Use (§303.414)

1. Except as provided in 2. (below), prior parental consent must be obtained before personally identifiable information is:
 - a) Disclosed to anyone other than authorized representatives, officials, or employees of MSDH or other participating agencies collecting, maintaining, or using the information under Part C of IDEA, subject to 2. (below); or
 - b) Used for any purpose other than meeting a requirement of Part C of IDEA.
2. MSDH or other participating agencies may not disclose personally identifiable information, as defined in §303.29, to any party except participating agencies, including MSDH and EI service programs/providers, that are part of Mississippi's Part C system, without parental consent, unless authorized to do so under:
 - a) Sections §303.401(d), §303.209(b)(1)(i) and (b)(1)(ii), and §303.211(b)(6)(ii)(A); or
 - b) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C of IDEA), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to Part C of

IDEA, MSDH or other participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR part 99 to Part C of IDEA, the reference to –

- (1) 34 CFR 99.30 means §303.414(a);
 - (2) “Education records” means early intervention records under §303.403(b);
 - (3) “Educational” means early intervention under this part;
 - (4) “Educational agency or institution” means the participating agency under §303.404(c);
 - (5) “School officials and officials of another school or school system” means qualified personnel or service coordinators under this part;
 - (6) “State and local educational authorities” means the lead agency under §303.22; and
 - (7) “Student” means a child under Part C of IDEA.
3. MSDH provides policies and procedures to be used when a parent refuses to provide consent under this section, such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under Part C of IDEA, provided that those procedures do not override a parent’s right to refuse consent under §303.420.

N. Safeguards (§303.415)

1. MSDH and each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure and destruction stages.
2. One official at MSDH and each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.
3. All persons collecting or using personally identifiable information must receive training or instruction regarding Mississippi’s policies and procedures under §303.401 through §303.417 and 34 CFR part 99.

4. MSDH and each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

O. Destruction of Personally Identifiable Information (§303.416(b))

1. MSDH and the participating agency must inform parents when personally identifiable information collected, maintained, or used under Part C of IDEA is no longer needed to provide services to the child under Part C of IDEA, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80.
2. Subject to paragraph 1. (above), the information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of service coordinator(s), EI service programs/providers, and exit data (including year and age upon exit, and any programs entered into upon exiting), may be maintained without time limitation.

P. Enforcement (§303.417)

1. MSDH has in effect the policies and procedures including sanctions and the right to file a complaint under §303.432 through §303.434, that the State uses to ensure that its policies and procedures, consistent with §303.401 through §303.417, are followed and that requirements of IDEA and the regulations of Part C of IDEA are met.

Parental Consent and Notice

A. Parental Consent and Ability to Decline Services (§303.420)

1. MSDH ensures parental consent is obtained before:
 - a) Administering screening procedures under §303.320 that are used to determine whether a child is suspected of having a disability;
 - b) All evaluations and assessments of a child are conducted under §303.321;
 - c) Early intervention services are provided to the child under Part C of IDEA;
 - d) Public benefits or insurance or private insurance is used if such consent is required under §303.520; and
 - e) Disclosure of personally identifiable information consistent with §303.414.

2. If a parent does not give consent under **A. 1. a) b) c)** (above), the MSDH must make reasonable efforts to ensure that the parent:
 - a) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and
 - b) Understands that the child will not be able to receive the evaluation, assessment or early intervention service unless consent is given.
3. MSDH may not use the due process hearing procedures under Part C or Part B of IDEA to challenge a parent's refusal to provide any consent that is required under **A. 1.** (above).
4. The parents of an infant or toddler with a disability:
 - a) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under Part C of IDEA at any time, in accordance with Mississippi law; and
 - b) May decline a service after first accepting it, without jeopardizing other early intervention services under Part C of IDEA.

C. Prior Written Notice and Procedural Safeguards Notice (§303.421)

1. General. Prior written notice must be provided to parents in a reasonable time before the MSDH or an EI service program/provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family.
2. Content of the Notice. The notice must be in sufficient detail to inform parents about:
 - a) The action that is being proposed or refused;
 - b) The reasons for taking the action; and
 - c) All procedural safeguards that are available under this subpart, including how to file a Written State complaint in §303.432 through §303.434, a description of mediation in §303.431, and a due process

(hearing) complaint in the provisions adopted under §303.430(d), and any timelines under those procedures.

3. Native Language.

a) The notice must be:

(1) Written in a language understandable to the general public; and

(2) Provided in the native language, as defined in §303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

b) If the native language or other mode of communication of the parent is not a written language, the public agency or designated EI service program/provider must take steps to ensure that:

(1) The notice is translated orally or by other means to the parent and in the parent's native language or other mode of communication;

(2) The parent understands the notice; and

(3) There is written evidence that the requirements of this paragraph have been met.

Surrogate Parents

A. Surrogate Parents (§303.422)

1. General. MSDH or other public agency ensures that the rights of a child are protected when:

a) No parent, as defined in §303.27, can be identified;

b) MSDH or other public agency, after reasonable efforts, cannot locate a parent; or

c) The child is a ward of the State under the laws of Mississippi.

2. Duty of MSDH and Other Public Agencies.

- a) The duty of MSDH, or other public agency under paragraph 1. (above) in this section, includes the assignment of an individual to act as a surrogate for the parent. The assignment process must include a method for:
 - (1) Determining whether a child needs a surrogate parent; and
 - (2) Assigning a surrogate parent to the child.
- b) In implementing the provisions under this section for children who are wards of the State of Mississippi or placed in foster care, MSDH/First Steps EIP must consult with the public agency that has been assigned care of the child.

3. Wards of the State

- a) In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by MSDH under 2. a) (above) may be appointed by the judge overseeing the infant's or toddler's case provided that the surrogate parent meets the requirements in 4. b) (1) through (6) below. In this event, MSDH will not appoint the surrogate parent.

4. Criteria for Selection of Surrogate Parents

- a) MSDH or other public agency may select a surrogate parent in any way permitted under Mississippi state law.
- b) Public agencies must ensure that a person selected as a surrogate parent:
 - (1) Is not an employee of MSDH, or any other public agency, or an EI service program/provider who provides early intervention services, education, care, or other services to the child or any family member of the child;
 - (2) Has no personal or professional interest that conflicts with the interest of the child he or she represents;
 - (3) Has knowledge and skills that ensure adequate representation of the child;
 - (4) Has no criminal record;

(5) Is eighteen (18) years old or older; and

(6) Is a citizen of Mississippi or the United States.

5. Non-employee Requirement – Compensation

a) A person who is otherwise qualified to be a surrogate parent under paragraph 4. (above) is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

6. Surrogate Parent Responsibilities

a) The surrogate parent has the same rights as a parent for all purposes under Part C of IDEA.

7. Lead Agency Responsibility

a) MSDH must make reasonable efforts to ensure the assignment of a surrogate parent not more than thirty (30) days after a public agency determines that the child is in need of a surrogate parent.

Dispute Resolution Options

A. State Dispute Resolution Options (§303.430)

1. General. The MSDH ensures implementation of the procedures in this section for the timely administrative resolution of complaints through mediation procedures, written state complaint procedures, and due process hearing procedures.

a) Mediation. The MSDH makes available to parties to disputes involving any matter under this part the opportunity for mediation that meets the requirements in §303.431.

b) Written State Complaint procedures. The MSDH has adopted written state complaint procedures to resolve any state complaints filed by any party regarding any violation of Part C of IDEA that meet the requirements in §§303.432 through 303.434.

c) Due process hearing procedures. The MSDH has adopted written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in §303.421(a) by

adopting the Part C of IDEA due process hearing procedures under section 639 of IDEA that:

- (1) Meet the requirements in §303.435 through §303.438; and
- (2) Provide a means of filing a due process complaint regarding any matter listed in §303.421(a).

2. Status of a child during the pendency of a due process complaint.

- a) During the pendency of any proceeding involving a due process complaint under 1. (above), unless MSDH and the parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP for which the parents have consented.
- b) If the due process complaint involves an application for initial services under Part C of IDEA, the child must receive those services that are not in dispute.

B. Mediation (§303.431)

1. General. The MSDH has procedures established and implemented to allow parties to disputes involving any matter under Part C of IDEA, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.
2. Requirements. The procedures ensure that the mediation process meet the following requirements:
 - a) Is voluntary on the part of the parties;
 - b) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of IDEA; and
 - c) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
3. Qualified Mediators. The MSDH maintains a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. The MSDH:

- a) Has mediators available who have been trained in procedures and have knowledge of Part C of IDEA; and
 - b) Selects mediators on a random, rotational, or other impartial basis.
4. Cost of Mediation. The MSDH bears the cost of the mediation process, including the costs of meetings described in 11. (below).
5. Timeliness and Convenience. Each session in the mediation process is scheduled in a timely manner and held in a location that is convenient to the parties to the dispute.
6. Agreement Resolution. If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that:
- a) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and
 - b) Is signed by both the parent and a representative of the MSDH who has the authority to bind such agency.
7. Signed Mediation Agreement. A written, signed mediation agreement under this section is enforceable in any Mississippi court of competent jurisdiction or in a district court of the United States.
8. Confidentiality. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or Mississippi court.
9. Impartiality of Mediator. An individual who serves as a mediator under Part C of IDEA:
- a) May not be an employee of the MSDH or the EI service program/provider;
 - b) May not be an EI service program/provider that is involved in the provision of early intervention services or other services to the child; and
 - c) Must not have a personal or professional interest that conflicts with the person's objectivity.

10. MSDH Employee. A person who otherwise qualifies as a mediator is not an employee of MSDH or an EI service program/provider solely because he or she is paid by the MSDH to serve as a mediator.
11. Meetings to encourage mediation. The MSDH has established procedures to offer to parents and EI service programs/providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party:
 - a) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in Mississippi established under section 671 or 672 of IDEA; and
 - b) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

Written State Complaint Procedures

A. Adoption of Written State Complaint Procedures (§303.432)

1. General. The MSDH has adopted written procedures for:
 - a) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in §303.434 by providing for the filing of a complaint with the MSDH; and
 - b) Widely disseminating to parents and other interested individuals, including parent training and information, Protection and Advocacy (P & A) agencies, and other appropriate entities, Mississippi's procedures under §303.432 through §303.434 to file a complaint.
 - c) The MSDH provides access to a toll free number, 800-451-3903, for parents or agencies that have a concern or complaint. Written complaints for due process procedures may be sent to the attention of the Part C Coordinator, First Steps Early Intervention Program, Mississippi State Department of Health, P.O. Box 1700, Jackson, MS 39215.
2. Remedies for denial of appropriate services. In resolving a complaint in which the MSDH has found a failure to provide appropriate services, MSDH, pursuant to its general supervisory authority under Part C of IDEA, addresses:

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

B. Minimum Written State Complaint Procedures (§303.433)

1. Time limit; minimum procedures. The MSDH includes in its complaint procedures a time limit of sixty (60) days after a complaint is filed under §303.434 to:
 - a) Carry out an independent on-site investigation, if the MSDH determines that an investigation is necessary;
 - b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
 - c) Provide MSDH, the public agency, or EI service programs/providers with an opportunity to respond to the complaint, including, at a minimum:
 - (1) At the discretion of the MSDH, a proposal to resolve the complaint; and
 - (2) An opportunity for a parent who has filed a complaint and the MSDH, the public agency, or EI service program/provider to voluntarily engage in mediation, consistent with §§303.403(b) and 303.431;
 - d) Review all relevant information and make an independent determination as to whether the MSDH, the public agency, or EI service program/provider is violating a requirement of Part C of IDEA or of the regulations implementing Part C of IDEA; and
 - e) Issue a written decision to the complainant that addresses each allegation in the complaint and contains:
 - (1) Findings of fact and conclusions; and

(2) The reasons for the MSDH's final decision.

2. Time extension: final decision. MSDH procedures:

a) Permit an extension of the time limit under paragraph 1. (above) in this section only if –

(1) Exceptional circumstances exist with respect to a particular complaint; or

(2) The parent, or individual or organization, and the MSDH, the public agency, or EI service programs/providers involved agree to extend the time to engage in mediation; and

b) Include procedures for effective implementation of the First Steps EIP's final decision, if needed, including:

(1) Technical assistance activities;

(2) Negotiations; and

(3) Corrective actions to achieve compliance.

3. Complaints filed under this section and due process hearings under §303.430(d).

a) If a written state complaint is received that is also the subject of a due process hearing under §303.430(d), or contains multiple issues of which one or more are part of that hearing, MSDH sets aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing is resolved using the time limit and procedures described in this section.

b) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties:

(1) The due process hearing decision is binding on that issue; and

(2) The MSDH informs the complainant to that effect.

- c) A complaint alleging the MSDH the public agency, or EI service programs/ provider’s failure to implement a due process hearing decision must be resolved by MSDH.

C. Filing a Complaint (§303.434)

1. An organization or individual may file a signed written state complaint under the procedures described in §303.432 and §303.433.
2. The complaint must include –
 - a) A statement that the MSDH, the public agency, or EI service programs/providers has violated a requirement of Part C of IDEA;
 - b) The facts on which the statement is based;
 - c) The signature and contact information for the complainant; and
 - d) If alleging violations with respect to a specific child:
 - (1) The name and address of the residence of the child;
 - (2) The name of the EI service program/provider serving the child;
 - (3) A description of the nature of the problem of the child, including facts relating to the problem; and
 - (4) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
3. The complaint must allege a violation that occurred not more than one year prior to the date the complaint is received in accordance with §303.432.
4. The party filing the complaint must forward a copy of the complaint to the public agency or EI service program/provider serving the child at the same time the party files the complaint with the MSDH.

Due Process Hearings

A. Appointment of an Impartial Due Process Hearing Officer (§303.435):

1. Impartial Due Process Hearing Officers. The Mississippi has due process hearing officers available who have been trained on dispute resolution procedures and have knowledge of Part C of IDEA.
2. Qualifications and duties. Whenever a due process complaint is received under §303.430(d), a due process hearing officer is appointed to implement the complaint resolution process in this section. The person must –
 - a) Have knowledge about the provisions of Part C of IDEA and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and
 - b) Perform the following duties:
 - (1) Listen to the presentation of relevant viewpoints about the due process complaint;
 - (2) Examine all information relevant to the issues;
 - (3) Seek to reach a timely resolution of the due process complaint; and
 - (4) Provide a record of the proceedings, including a written decision.
3. Definition of Impartial.
 - a) Impartial means the due process hearing officer appointed to implement the due process hearing under Part C of IDEA:
 - (1) Is not an employee of MSDH or an EI service program/provider involved in the provision of early intervention services or care of the child; and
 - (2) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process.
 - b) A person who otherwise qualifies under paragraph 3. a) (1) (2) (above) in this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under Part C of IDEA.

B. Parental Rights in Due Process Hearing Proceedings (§303.436)

1. General. The MSDH/First Steps EIP ensures that the parents of a child referred to Part C of IDEA are afforded the rights in the due process hearing carried out under §303.430(d).
2. Rights. Any parent involved in a due process hearing has the right to:
 - a) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities;
 - b) Present evidence and confront, cross-examine, and compel the attendance of witnesses;
 - c) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing;
 - d) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and
 - e) Receive a written copy of the findings of fact and decisions at no cost to the parent.

C. Convenience of Hearings and Timelines (§303.437)

1. Any due process hearing conducted under this section must be carried out at a time and place that is reasonably convenient to the parents.
2. The MSDH ensures that, not later than thirty (30) days after the receipt of a parent's due process complaint, the due process hearing required under this section is completed and a written decision mailed to each of the parties.
3. A hearing officer may grant specific extensions of time beyond the period set out in paragraph 2. (above) in this section at the request of either party.

D. Civil Action (§303.438)

1. Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in Mississippi or a Federal court under section 639(a)(1) of IDEA.

6. Use of Funds and Payor of Last Resort

A. Use of Funds, Payor of Last Resort and Systems of Payment (§303.500)

1. Statewide System. MSDH ensures written policies and procedures meet the requirements of the:
 - a) Use of funds provisions in §303.501; and
 - b) Payor of last resort provisions in §303.510 through §303.521, regarding the identification and coordination of funding resources for, and the provision of, early intervention services under Part C of IDEA within Mississippi.
2. System of Payments. Mississippi has established, consistent with §303.13(a)(3) and §303.203(b), a system of payments for early intervention services under Part C of IDEA, required to be paid under Federal, State, local, or private programs of insurance or benefits for which the infant or toddler with a disability or the child's family is enrolled that meets the requirements of §303.520 and §303.521.

Use of Funds

B. Permissive Use of Funds by the Lead Agency (§303.501)

1. Consistent with §303.120 through §303.122 and §303.220 through §303.226, MSDH uses funds under this part for activities or expenses that are reasonable and necessary for implementing Mississippi's early intervention program for infants and toddlers with disabilities including funds:
 - a) For direct early intervention services for infants and toddlers with disabilities and their families under Part C of IDEA that are not otherwise funded through other public or private sources, subject to §303.510 through §303.521;
 - b) To expand and improve services for infants and toddlers with disabilities and their families under this part that are otherwise available;
 - c) Mississippi does not provide FAPE as that term is defined in §303.15, in accordance with Part B of IDEA, to children with disabilities from their third birthday to the beginning of the following school year; and

- d) Although Mississippi does not provide services under §303.204 for at-risk infants and toddlers, as defined in §303.5, efforts to strengthen the statewide system are made by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public and private community-based organizations, services, and personnel for the purpose of:
 - (1) Identifying and evaluating at-risk infants and toddlers;
 - (2) Making referrals for the infants and toddlers identified and evaluated under this section; and
 - (3) Conducting periodic follow-up on each referral, to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under Part C of IDEA.

Payor of Last Resort – General Provisions

C. Payor of Last Resort (§303.510)

1. Nonsubstitution of funds. Except as provided in A. 2. (above) in this section, funds under Part C of IDEA may not be 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 IDEA. Therefore, funds under Part C of IDEA may be 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, Mississippi, local, or private source, subject to §303.520 and §303.521.
2. Interim payments – reimbursement. If necessary to prevent a delay in the timely provision of appropriate early intervention services to a child or the child’s family, funds under Part C of IDEA may be used to pay the provider of services, including health services, for services and functions authorized under Part C of IDEA, as defined in §303.16, but not medical services, functions of the child find system described in §303.115 through §303.117 and §303.301 through §303.320, and evaluations and assessments in §303.321, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.
3. Non-reduction of benefits. Nothing in Part C of IDEA may be construed to permit Mississippi to reduce medical or other assistance available in the State or

to alter eligibility under Title V of the Social Security Act (SSA), 42 U.S.C. 701, et seq., relating to maternal and child health; or Title XIX of the SSA, 42 U.S.C. 1396, relating to Medicaid, including section 1903(a) of the SSA regarding medical assistance for services furnished to an infant or toddler with a disability when those services are included in the child's IFSP adopted pursuant to Part C of IDEA.

D. Methods to Ensure the Provision of, and Financial Responsibility for Part C Services (§303.511)

1. General. MSDH ensures that it has in place methods for state interagency coordination. Under these methods, the Governor of Mississippi or a designee of the Governor must ensure that the interagency agreement or other method for interagency coordination is in effect between each Mississippi public agency and the MSDH, to ensure:
 - a) The provision of, and establishing financial responsibility for, early intervention services provided under Part C of IDEA; and
 - b) Such services are consistent with the requirement in section 635 of the Act and the Mississippi application under section 637 of the Act, including the provision of such services during the pendency of any dispute between State agencies.
2. The methods in paragraph **D. 1.** (above) meet all requirements in this section and are set forth in one of the following:
 - a) State law or regulation;
 - b) Signed Memorandums of Understanding and/or Interagency and Intra-agency Agreements between respective agency officials that clearly identify the financial and service provision responsibilities of each agency, or entity within the agency; or
 - c) Other appropriate written methods determined by the Governor of Mississippi or the designee, MSDH, and approved by the Secretary through the review and approval of Mississippi's application.
3. Procedures for resolving disputes.
 - a) Each method includes procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the early

intervention system in Mississippi. Those procedures include a mechanism for resolution of disputes within agencies and for the Governor, the Governor's designee, or MSDH to make a final determination for interagency disputes, which determination must be binding upon the agencies involved.

- b) The method:
 - (1) Permits the agency to resolve its own internal disputes, based on the agency's procedures that are included in the agreement, so long as the agency acts in a timely manner; and
 - (2) Includes the process that MSDH will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

- c) If, during MSDH's resolution of the dispute, the Governor, the Governor's designee, or MSDH determines that the assignment of financial responsibility under this section was inappropriately made:
 - (1) The Governor, the Governor's designee, or MSDH must reassign the financial responsibility to the appropriate EI service program/provider; and
 - (2) The MSDH makes arrangements for reimbursement of any expenditure incurred by the agency originally assigned financial responsibility.

- d) Delivery of services in a timely manner. The methods adopted by Mississippi under this section:
 - (1) Include a mechanism to ensure that no services that a child is entitled to receive under Part C of IDEA are delayed or denied because of disputes between agencies regarding financial or other responsibilities; and
 - (2) Are consistent with the written funding policies adopted by MSDH under this section and include any provisions Mississippi has adopted under §303.520 regarding the use of insurance to pay for Part C of IDEA services.

- e) Additional components. Each method includes any additional components necessary to ensure effective cooperation and

coordination among, and MSDH's general supervision, including monitoring of EI service programs/providers, including all public agencies, involved in the Mississippi early intervention system.

Payor of Last Resort & System of Payments Provisions – Use of Insurance, Benefits, Systems of Payments, and Fees

A. Policies Related to Use of Public Benefits or Insurance or Private Insurance to Pay for Part C Services (§303.520)

1. Use of public benefits or public insurance to pay for Part C services. MSDH may not use the public benefits or insurance of a child or parent to pay for services under Part C of IDEA unless MSDH provides written notification, consistent with §303.520(a)(3), to the child's parents and MSDH meets the no-cost protections identified in a) (1) through (4) (below):

- a) With regard to using the public benefits/insurance of a child or parent to pay for Part C services, First Steps EIP:
 - (1) Does not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and obtains consent prior to using the public benefits or insurance of a child or parent if that child or parent is already enrolled in such a program.
 - (2) Obtains consent, consistent with §303.7 and §303.420(a)(4), to use a child's or parent's public benefits or insurance to pay for Part C of IDEA 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 premium or discontinuation of public benefits or insurance for that child or that child's parents; or

- (d) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.
- (3) If the parent does not provide consent under (1) and (2) (above), MSDH still makes available those Part C services on the IFSP to which the parent has provided consent.
- (4) Prior to using a child's or parent's public benefits/insurance to pay for Part C of IDEA services, MSDH provides written notification to the child's parents. The notification includes:
- (a) A statement that parental consent is obtained under §303.414, if that provision applies, before MSDH or the EI service program/provider discloses, for billing purposes, a child's personally identifiable information to the Mississippi public agency responsible for the administration of the Mississippi public benefits or insurance program (e.g., Medicaid, CHIP, Mississippi Coordinated Access Network (MS CAN));
 - (b) 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), MSDH still makes available those Part C services on the IFSP for which the parent has provided consent;
 - (c) 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 Mississippi public agency responsible for the administration of the Mississippi public benefits/insurance (e.g., Medicaid, CHIP, MS CAN) or private insurance at any time; and
 - (d) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits/insurance program, such as the cost of insurance premiums, or the required use of private insurance as the primary insurance. Parents will continue to incur the cost of the premiums for the public benefits/insurance used to pay for EI services. The public benefits/insurance may be used to pay for EI

services only with the parent's written consent. First Steps EIP will pay for deductibles or co-pays that are required as a result of use of the public benefits/ insurance and the allowable cost of the EI service after insurance payment, as verified by an Explanation of Benefits (EOB).

2. Use of private insurance to pay for Part C Services.

- a) MSDH may not use the private insurance of a parent of an infant or toddler with a disability to pay for services under Part C of IDEA unless the parent provides parental consent, consistent with §303.7 and §303.420(a)(4), to use private insurance to pay for Part C of IDEA services for his or her child. This includes the uses of private insurance, when such use is a prerequisite for the use of public benefits or insurance. Parent consent must be obtained:
 - (1) When MSDH or an EI service program/provider seeks to use the parent's private insurance or benefits to pay for the initial provision of an early intervention service in the IFSP; and
 - (2) Each time consent for EI services is required §303.420(a)(3) due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.
- b) When obtaining parental consent required in 2. a) (1) and (2) (above) to use a child's or parent's private insurance policy to pay for an early intervention service, First Steps must provide to the parent a copy of First Steps EIP'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 Part C of IDEA (e.g., 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). The parent will continue to incur the cost of the premium for their private insurance used to pay for EI services. The private insurance may be used to pay for EI services only with the parent's written consent. First Steps will pay for deductibles or co-pays that are required as a result of use of the private insurance and the allowable cost of the EI services after insurance payment, as verified by an Explanation of Benefits (EOB).

c) Mississippi has not enacted a state statute regarding private health insurance coverage for early intervention services under Part C of IDEA. However:

- (1) The use of private health insurance to pay for Part C of IDEA 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 insurance policy;
- (2) The use of private health insurance to pay for Part C of IDEA services cannot negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family member 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 IDEA; and
- (3) The use of private health insurance to pay for Part C of IDEA services cannot be the basis for increasing the health insurance premiums of an infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.

3. Inability to pay. MSDH does not determine under §503.521(a)(3) the ability of a parent or family of an infant or toddler with a disability to pay for early intervention services; however, if the parent does not provide consent, the lack of consent may not be used to delay or deny any services under Part C of IDEA to that child or family.

4. Proceeds or funds from public insurance or benefits or from private insurance.

- (1) Proceeds or funds from public insurance or benefits or from private insurance are not treated as program income for purposes of 34 CFR 80.25.
- (2) Reimbursements received from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under Part C of IDEA are considered neither State nor local funds under §303.225.
- (3) Funds from private insurance for services under Part C of IDEA are considered neither State nor local funds under §303.225.

5. No family funds. Mississippi does not receive funds from parents or family members under MSDH's System of Payments to cover any EI services.
6. Mississippi's Third Party Liability (TPL) and Medicaid:
 - a) Third Party Liability and Medicaid.
 - (1) TPL refers to a Medicaid eligible individual who also has private insurance.
 - (2) Claims for EI service will first be processed through private insurance benefits prior to the use of public benefits (Medicaid).
 - (3) If private insurance denies or pays a partial claim, then claims can be filed under the public benefits/insurance (Medicaid).
 - (4) If the parent declines consent to use private insurance and the child also has Medicaid, First Steps EIP, under Mississippi regulations, is not allowed to bill Medicaid. In this situation, neither private insurance nor Medicaid is billed. Payor of Last Resort funds will be used to pay for the child's EI services.
7. The parent will not incur costs for EI services for the child and/or family as a result of participating in a public benefit/insurance or private insurance. MSDH will pay co-pays and deductibles up to the cost of the early intervention service. The parent is not required to use private insurance as the primary insurance. MSDH includes such information in their System of Payments policies under §303.521 and in the notification provided to the parent.

B. System of Payments and Fees (§303.521)

1. General. MSDH has a system of cost participation for parents or families of eligible infants and toddlers in Mississippi. The system of payments for provision of EI service includes public benefits/insurance or private insurance. Information regarding payment sources and potential costs to parents is provided to parents in writing and specifies which functions or services are subject to the system of payments (including any fees or costs to the family as a result of using one or more of the family's public benefits/insurance or benefits or private insurance), and includes:
 - a) The payment system and explanation of any costs to parents for receipt of early intervention services which include:

- (1) Parents who have public benefits/insurance for their child and consent to the use of the benefits/insurance for payment of EI services will continue to be responsible for the cost of the public insurance premiums.
 - (2) Parents who have private insurance for their child and consent to the use of the insurance for payment of EI services will continue to be responsible for the cost of the private insurance premiums.
- b) An assurance that fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost.
 - c) 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; and
 - d) Provisions that permit, but do not require, MSDH to use Part C or other funds to pay for costs such as deductibles or copayments. MSDH/First Steps EIP does not require parents or families with public benefits/insurance or private insurance to pay for deductibles or co-pays required by the insurance when the insurance is used for payment of EI services. MSDH/First Steps EIP will pay the co-pays or deductibles for the EI service(s), up to the allowable cost of the EI service. An Explanation of Benefits (EOB) must be provided by the insured family prior to MSDH/First Steps EIP paying the co-pay or deductible.
2. Functions not subject to fees. The following required functions are carried out at public expense, and no fees may be charged to parents:
- a) Implementing the child find requirements in §303.301 through §303.303;
 - b) Evaluation and assessment, in accordance with §303.320, and the functions related to evaluation and assessment in §303.13(b);
 - c) Service Coordination services, as defined in §303.13(b)(11) and §303.33; and
 - d) Administrative and coordinative activities related to –
 - (1) The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§303.342 through 303.345; and

- (2) Implementation of the procedural safeguards in subpart E of this Part C of IDEA and this subpart and the other components of the statewide system of early intervention services.
3. MSDH/First Steps EIP does not have a FAPE (Free and Appropriate Public Education) mandate.
4. MSDH/First Steps EIP does not charge or collect fees from a parent or the child's family based on a sliding fee scale or on the parent's or family's income or ability to pay for participation in the EI program or for the receipt of early intervention services.
5. Procedural Safeguards.
 - a) MSDH has a system of payment, which includes written policies to inform parents who wish 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:
 - (1) Participate in mediation in accordance with §303.431.
 - (2) Request a due process hearing under §303.436 or §303.441, whichever is applicable.
 - (3) File a Written State Complaint under §303.434.
 - (4) Use any other procedure established by MSDH for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under Part C of IDEA, including the right to pursue, in a timely manner, the redress options.
 - b) MSDH/First Steps EIP informs parents of these procedural safeguard options by:
 - (1) Providing the parents with MSDH/First Steps EIP's System of Payments Policies when obtaining initial consent for provision of EI services;
 - (2) Offering parents a copy of the Systems of Payments policies when there is an increase in the use of public benefits/insurance or private insurance; and

- (3) Offering the parents a copy of the Systems of Payments policies annually, at a minimum.

C. Fraud, Abuse and Waste Policy and Whistleblower Policy:

1. First Steps EIP follows the policies and procedures of the lead agency, the Mississippi State Department of Health, regarding Fraud, Waste, and Abuse, and the MSDH policies and procedures regarding the Whistleblower Act. The policies and procedures may be found in the MSDH Policies and Procedures Manual.

7. State Interagency Coordinating Council

A. Establishment of Council (§303.600)

1. Mississippi has established a Council, known as the State Interagency Coordinating Council (SICC), as defined in §303.8.
2. The SICC is appointed by the Governor of the State of Mississippi. The Governor ensures that the membership of the (SICC) reasonably represents the population of the State of Mississippi.
3. The Governor of Mississippi designates, or has the SICC designate, two members of the SICC to serve as the Chair and Vice Chair of the SICC. Any member of the SICC, who is a representative of the lead agency designated under §303.201, may not serve as the chairperson of the SICC.

B. Composition of the State Interagency Coordinating Council (SICC) (§303.601)

1. The SICC in Mississippi is composed as follows:
 - a) At least twenty (20) percent of the members are parents, including--
 - (1) Minority parents of infants or toddlers with disabilities or children with disabilities aged twelve (12) years or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities.
 - (2) At least one (1) of the parent members is a parent of an infant or toddler with a disability or a child with a disability aged six (6) years or younger.

- b) At least twenty (20) percent of the members are public or private providers of early intervention services.
- c) At least one (1) member is from the Mississippi State Legislature.
- d) At least one (1) member is involved in personnel preparation.
- e) At least one (1) member is:
 - (1) From each of the Mississippi agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and
 - (2) Has sufficient authority to engage in policy planning and implementation on behalf of these agencies.
- f) At least one (1) member is:
 - (1) From the Mississippi Department of Education (MDE) that is responsible for preschool services to children with disabilities; and
 - (2) Has sufficient authority to engage in policy planning and implementation on behalf of MDE.
- g) At least one (1) member is from the agency that is responsible for Mississippi Medicaid and CHIP program.
- h) At least one (1) member is from a Head Start or Early Head Start agency or program in Mississippi.
- i) At least one (1) member is from a Mississippi agency that is responsible for child care.
- j) At least one (1) member is from the agency that is responsible for the Mississippi regulation of private health insurance.
- k) At least one (1) member is a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

- l) At least one (1) member is a representative from the Mississippi Child Welfare Agency (Department of Human Services) that is responsible for foster children in the state.
 - m) At least one (1) member is from the Mississippi agency that is responsible for children's mental health.
2. The Governor may appoint one member to represent more than one program or agency listed in 1. g) through 1. m) (above).
 3. The SICC may include other members selected by the Governor, including a representative from the Bureau of Indian Education (BIE), the Indian Health Service or the tribe or tribal council.
 4. No member of the Council may cast a vote on any matter that would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Mississippi state law.

C. Meetings (§303.602)

1. The SICC meets, at a minimum, on a quarterly basis, and in such places as it determines necessary.
2. The meetings are:
 - a) Publicly announced sufficiently in advance of the dates they are to be held to ensure that all interested parties have an opportunity to attend;
 - b) To the extent appropriate, open and accessible to the general public; and
 - c) As needed, interpreters are available for persons who are deaf and other necessary services are available for SICC members and participants. The SICC may use funds under Part C of IDEA to pay for those services.

D. Use of Funds by the Council (SICC) (§303.603)

1. Subject to the approval by the Governor, the SICC may use funds under Part C of IDEA to:
 - a) Conduct hearings and forums;
 - b) Reimburse members of the SICC for reasonable and necessary expenses for attending SICC meetings and performing SICC duties, including child care for parent representatives;

- c) Pay compensation to a member of the SICC, if the member is not employed, or the member must forfeit wages from other employment when performing official SICC business;
 - d) Hire staff; and
 - e) Obtain the services of professional, technical, and clerical personnel as may be necessary to carry out the performance of its functions under Part C of IDEA.
2. Except as provided in paragraph 1. (above) of this section, SICC members must serve without compensation from funds available under Part C of IDEA.
 3. The SICC is provided annual funding to adopt a budget and expend funds as permitted under Part C of IDEA.

E. Functions of the Council (SICC) - Required Duties (§303.604)

1. Advising and assisting the lead agency. The SICC advises and assists the MSDH in the performance of its responsibilities in section 635(a)(10) of the Act, including:
 - a) Identification of sources of fiscal and other support for services for early intervention service programs under Part C of IDEA;
 - b) Assignment of financial responsibility to the appropriate agency;
 - c) Promotion of methods, including use of intra-agency and interagency agreements, for intra-agency and interagency collaboration regarding child find under §303.115 and §303.302, monitoring under §303.120 and §303.700 through §303.708, financial responsibility and provision of early intervention services under §303.202 and §303.209; and
 - d) Preparation of applications under Part C of IDEA and amendments to those applications.
2. Advising and assisting on transition. The SICC must advise and assist the Mississippi Department of Education (MDE), including the SEA, and the Mississippi State Department of Health, First Steps EIP, as the lead agency, regarding the transition of toddlers with disabilities to preschool and other appropriate services.

3. Annual report to the Governor and to the Secretary. The SICC must:
 - a) Prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families under Part C of IDEA, which are operated within the State of Mississippi; and
 - b) Submit the report to the Secretary by a date that the Secretary establishes.

F. Authorized activities by the Council (SICC) (§303.605)

4. The SICC may carry out the following activities:
 - a) Advise and assist the MSDH/First Steps EIP, and the Mississippi Department of Education (MDE), regarding the provision of appropriate services for children with disabilities from birth to age five (5).
 - b) Advise appropriate agencies in Mississippi with respect to the integration of services for infants and toddlers with disabilities and “at-risk” infants and toddlers and their families, regardless of whether “at-risk” infants and toddlers are eligible for early intervention services in Mississippi.
 - c) Coordinate and collaborate with the State Advisory Council on Early Childhood Education and Care for children which is the State Early Childhood Advisory Council (SECAC), as described in section 642B(b)(1)(A)(i) of the Head Start Act, 42 U.S.C. 9837b(b)(1)(A)(i), if applicable, and other interagency early learning initiatives in the state of Mississippi, as appropriate.

8. State Monitoring and Enforcement; Federal Monitoring and Enforcement; Reporting; and Allocation of Funds

A. State Monitoring and Enforcement (§303.700)

1. Mississippi State Department of Health (MSDH), as the lead agency:
 - a) Monitors the implementation of Part C of IDEA;

- b) Makes determinations annually about the performance of each of the nine (9) public health districts, which includes the EI service programs/providers, using the categories identified in §303.703(b);
 - c) Enforces Part C of IDEA consistent with §303.704, using appropriate enforcement mechanisms, which includes, if applicable:
 - (1) Technical assistance as identified in §303.704(a)(1);
 - (2) Imposing conditions on MSDH’s funding of any public health district or EI service programs/providers as identified in §303.704(a)(2);
 - (3) Corrective action or improvement plan as identified in §303.704(b)(2)(i); and
 - (4) Withholding of funds, in whole or in part, by MSDH as identified in §303.704(b)(2)(iv) and §303.704(c)(2).
 - d) Reports annually on the performance of the State and of each public health district, which includes the EI service programs/providers under Part C of IDEA, as provided in §303.702.
2. The primary focus of Mississippi’s monitoring activities are on:
- a) Improving early intervention results and functional outcomes for all infants and toddlers with disabilities; and
 - b) Ensuring that each public health district’s EI service programs/providers meet the program requirements under Part C of IDEA, with a particular emphasis on those requirements that are most closely related to improving early intervention results for infants and toddlers with disabilities.
3. As part of MSDH’s responsibilities under paragraph 1. (above) in this section, First Steps EIP uses quantifiable indicators and such qualitative indicators, as needed, to adequately measure performance in the priority areas identified in paragraph 4. (below), and the indicators established by the Secretary for the State Performance Plan.
4. MSDH/First Steps EIP monitors each of the nine public health district’s EI service programs/providers that are located in Mississippi, using quantifiable indicators

in each of the following priority areas, and using such qualitative indicators, as needed, to adequately measure performance in those areas:

- a) Early intervention services in natural environments; and
 - b) State exercise of general supervision, including child find, effective monitoring, mediation, and a system of transition services, as defined in section 637(a)(9) of IDEA.
5. In exercising its monitoring responsibilities under paragraph 4. (above) in this section, MSDH/First Steps EIP ensures that when it identifies noncompliance with the requirements of this part by the public health district's EI service programs/providers, the noncompliance is corrected, as soon as possible, and in no case later than one (1) year after the MSDH's identification of the noncompliance.

A. State Performance Plans and Data Collection (§303.701)

1. General. MSDH has in place a performance plan that meets the requirements described in section 616 of IDEA; is approved by the Secretary; and includes an evaluation of MSDH efforts to implement the requirements and purposes of Part C of IDEA, a description of how MSDH will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in §303.700(d).
2. Review of State Performance Plan. MSDH/First Steps EIP reviews its State Performance Plan at least once every six years and submits annual amendments to the Secretary.
3. Data Collection.
 - a) MSDH collects valid and reliable information, as needed, to report annually to the Secretary under §303.702(b)(2) on the indicators established by the Secretary for the State performance plans.
 - b) MSDH/First Steps EIP collects data on specific indicators through State monitoring. MSDH/First Steps EIP collects data for a particular indicator through State monitoring and reports data on those indicators for each public health district, which includes its EI service programs/providers.

- c) Nothing in Part C of IDEA, or these regulations, may be construed to authorize the development of a nationwide database of personally identifiable information of individuals involved in studies or other collections of data under Part C of IDEA.

B. State Use of Targets and Reporting (§303.702)

1. General. First Steps EIP uses the targets established in the State’s Performance Plan under §303.701 and the priority areas described in §303.700(d) to analyze the performance of each public health district, which includes its EI service programs/providers, in implementing Part C of IDEA.
2. Public reporting.
 - a) MSDH/First Steps EIP:
 - (1) Reports annually to the public on the performance of each EI service program/provider located in the State on the targets in the Mississippi Annual Performance Report, as soon as practicable, but no later than one hundred and twenty (120) days following the submission of the Mississippi Annual Performance Report to the Secretary under 3. (below); and
 - (2) Makes the State’s Performance Plan under §303.701(a), annual performance reports, and the State’s annual reports on the performance of each public health district, which includes its EI service programs/providers, available through public means, which may include posting on the MSDH web site, presenting at the State Interagency Coordinating Council meeting, and distributing to each public health district, which includes its EI service programs/providers.
 - b) In meeting the requirements of this section, since First Steps EIP collects some data through State monitoring, First Steps EIP includes in its public report on the public health districts, which includes its EI service programs/providers, the most recently available performance data on each public health district which includes its EI service programs/providers and the date the data was collected.
3. State Performance Report. First Steps EIP reports annually to the Secretary on the performance of the State under the State’s Performance Plan.

5. Privacy. First Steps EIP does not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data was insufficient to yield statistically reliable information.

C. MSDH/First Steps EIP Review and Determination Regarding State Local Performance (§303.703)

1. Review. The Secretary annually reviews the State's Annual Performance Plan Report submitted pursuant to §303.702(b)(2).
2. Determination.
 - a) Based on the information provided in MSDH/First Steps EIP's Annual Performance Report, information obtained through monitoring visits, and other public information made available, the Secretary determines if the state of Mississippi:
 - (1) Meets the requirements and purposes of Part C of IDEA;
 - (2) Needs assistance in implementing the requirements of Part C of IDEA;
 - (3) Needs intervention in implementing the requirements of Part C of IDEA; or
 - (4) Needs substantial intervention in implementing the requirements of Part C of IDEA.
 - b) Notice and opportunity for a hearing:
 - (1) For determinations made under paragraphs 2. a) (3) and 2. a) (4) (above) in this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations; and
 - (2) The hearing described in paragraph 2. b) (1) (above) in this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Secretary should not make the

determination described in paragraph 2. a) (3) or 2. a) (4) (above) in this section.

D. Enforcement (§303.704)

1. Needs assistance. If the MSDH/First Steps EIP determines, for two consecutive years, that a public health district, which includes its EI service programs/providers, needs assistance under §303.703(b)(1)(ii) in implementing the requirements of Part C of IDEA, the MSDH/First Steps EIP takes one or more of the following actions:
 - a) Advises the public health district, which includes its EI service programs/providers, of available sources of technical assistance that may help the EI service program/provider, and address the areas in which they need assistance, which may include assistance from the MSDH/First Steps EIP and technical assistance providers, including federally funded non-profit agencies, and requires the EI service programs/providers to work with appropriate entities. The technical assistance may include:
 - (1) The provision of advice by experts to address the areas in which the public health district, which includes its EI service programs/providers, needs assistance, including explicit plans for addressing the areas of concern within a specified period of time;
 - (2) Assistance in identifying and implementing professional development, early intervention service provision strategies, and methods of early intervention service provision that are based on scientifically based research;
 - (3) Designating and using administrators, district coordinators, service coordinators, service providers, and other personnel from the MSDH/First Steps EIP to provide advice, technical assistance and support; and
 - (4) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, and national centers of technical assistance supported under Part D of IDEA, and private providers of scientifically based technical assistance.

b) Identifies the public health district, which includes its EI service programs/providers as a high-risk grantee, and imposes special conditions on MSDH/First Steps EIP's grant under Part C of IDEA.

2. Needs intervention. If the MSDH/First Steps EIP determines, for three (3) or more consecutive years, that a public health district, which includes its EI service programs/providers, needs intervention under §303.703(b)(1)(iii) in implementing requirements of Part C of IDEA, the following apply:

a) The MSDH/First Steps EIP may take actions described in paragraph a) of this section.

b) The MSDH/First Steps EIP takes one or more of the following actions:

(1) Requires the public health district, which includes its EI service programs/providers, to prepare a corrective action plan or improvement plan, if the MSDH/First Steps EIP determines that the public health district, which includes its EI service programs/providers, should be able to correct the problem within one year.

(2) Seeks to recover funds under section 452 of GEPA, 20 U.S.C. 1234a.

(3) Withholds, in whole or in part, any further payments to the public health district, which includes its EI service programs/providers, under Part C of IDEA.

(4) Refers the matter for appropriate enforcement action.

3. Needs substantial intervention. Notwithstanding paragraph 1. or 2. (above) in this section, at any time that the MSDH/First Steps EIP determines that a public health district, which includes its EI service programs/providers needs substantial intervention in implementing the requirements of Part C of IDEA, or that there is a substantial failure to comply with any requirement under Part C of IDEA by the public health district, which includes its EI service programs/providers, MSDH/First Steps EIP takes one or more of the following actions:

a) Recovers funds under section 452 of GEPA, 20 U.S.C. 1234a.

- b) Withholds, in whole or in part, any further payments to the State under Part C of IDEA.
- c) Refers the case to the Office of Inspector General of the Department of Education.
- d) Refers the matter for appropriate enforcement action.

E. Public Attention (§303.706)

- 1. Whenever MSDH receives notice that the Secretary is proposing to take, or is taking, an enforcement action pursuant to §303.704, MSDH must, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to section 616(e) of IDEA and §303.704 of the regulations to the attention of the public within Mississippi, including posting the notice on the web site of MSDH and distributing the notice to the media and to EI service programs/providers.

F. Rule of Construction (§303.707)

- 1. Nothing in this subpart may be construed to restrict the Secretary from utilizing any authority under GEPA, 20 U.S.C. 1221 et seq., and its regulations in 34 CFR parts 76, 77, 80, and 81, including the imposition of special conditions under 34 CFR 80.12, to monitor and enforce the requirements of IDEA.

G. State Enforcement (§303.708)

- 1. Nothing in this subpart may be construed to restrict MSDH from utilizing any other authority available to monitor and enforce the requirements of IDEA.

H. Data Requirements – General (§303.720)

- 1. MSDH/First Steps EIP annually reports to the Secretary and to the public on the information required by section 618 of IDEA at the times specified by the Secretary.
- 2. MSDH/First Steps submits the report to the Secretary in the manner prescribed by the Secretary.

I. Annual Report of Children Served – Report Requirements (§303.721)

1. For purposes of the annual report required by section 618 of IDEA and §303.720, First Steps EIP counts and reports the number of infants and toddlers receiving early intervention services on one day between October 1 and December 1 of each year. The report includes:
 - a) The number and percentage of infants and toddlers with disabilities in Mississippi, by race, gender, and ethnicity, who are receiving early intervention services (and includes in this number any children reported to it by tribes, tribal organizations, and consortia under §303.731(e)(1));
 - b) The number and percentage of infants and toddlers with disabilities, by race, gender, and ethnicity, who, from birth through age two, stopped receiving early intervention services because of program completion or for other reasons; and
 - c) The number and percentage of at-risk infants and toddlers (as defined in section 632(1) of IDEA), by race and ethnicity, who are receiving early intervention services under Part C of IDEA.
2. The report also includes the number of due process complaints filed under section 615 of IDEA, the number of hearings conducted, the number of mediations held, and the number of settlement agreements reached through such mediations. MSDH/First Steps EIP does not have resolution sessions for hearing requests, since Part C procedures are used for dispute resolution.

J. Data Reporting (§303.722)

1. Protection of Identifiable Data. The data described in section 618(a) of IDEA and in §303.721 is publicly reported by MSDH/First Steps EIP in a manner that does not result in disclosure of data identifiable to individual children.

K. Annual Report of Children Served – Certification (§303.723)

1. First Steps EIP includes in its report a certification signed by an authorized official of MSDH that the information provided under §303.721 is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.

**L. Annual Report of Children Served – Other Responsibilities of the Lead Agency
(§303.724)**

1. In addition to meeting the requirements of §303.721 through §303.723, First Steps EIP conducts its own child count. First Steps EIP does not use EI service programs/providers to assist in the completion of its child count.
 - a) Ensure that documentation is maintained to enable MSDH/First Steps EIP and the Secretary to audit the accuracy of the count.