

The final IDEA Part C regulations: Uncover the critical changes

The following chart is organized by topic to help you track final IDEA Part C regulations governing services for infants and toddlers, which the Education Department released Sept. 6. Important changes are noted in bold. The chart, which has evolved over the years, notes IDEA '97 regulations, '04 proposed language, and the '11 final regulations.

(Last updated September 8, 2011)

Topic	IDEA '97 Regulations	IDEA '04 Proposed Regulations	IDEA '11 Final regulations
<p>Definition -- Multidisciplinary (This pertains to IFSP meeting composition.)</p>	<p>The involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and development of the IFSP.</p>	<p>The involvement of two or more individuals from separate disciplines or professions or one individual who is qualified in more than one discipline or profession.</p>	<p>The involvement of two or more separate disciplines or professions and with respect to:</p> <p>(a) Evaluation of the child and assessments of the child and family, may include one individual who is qualified in more than one discipline or profession; and</p> <p>(b) The IFSP Team 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.</p>
<p>Evaluation Timeline</p>	<p>Within 45 days after it receives a referral, the public agency will complete evaluation and assessment activities and hold an IFSP meeting.</p>	<p>The evaluation of a child (including any assessments of the child and family) and assessment of service needs, as well as the initial IFSP meeting, must be completed within 45 days from the date the lead agency obtains parental consent to conduct an evaluation of the child.</p>	<p>Any screening; the initial evaluation and the initial assessments of the child and family; and the initial IFSP meeting must be completed within 45 days from the date the lead agency or EIS provider receives the referral of the child.</p> <p>The 45-day timeline does not apply for any period when:</p> <p>(1) The child or parent</p>

is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or

(2) The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the lead agency or EIS provider to obtain parental consent.

The lead agency or EIS provider must:

(1) Document in the child's early intervention records the exceptional family circumstances or repeated attempts by the lead agency or EIS provider to obtain parental consent;

(2) Complete the screening (if applicable), the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances no longer exist or

			<p>parental consent is obtained for the screening (if applicable), the initial evaluation, and the initial assessment of the child; and</p> <p>(3) Develop and implement an interim IFSP, to the extent appropriate.</p>
<p>Policies Related to Use of Private Insurance for Payment for Services</p>	<p>No provision.</p>	<p>A State would not be able to access a parent's private insurance to pay for Part C services unless the parent provides informed consent to do so.</p> <p>The parental consent requirement does not apply if the State has enacted a statute regarding private health insurance coverage for early intervention services under Part C that provides specific protections. These protections must include ensuring that the use of health insurance to pay for Part C services cannot:</p> <ul style="list-style-type: none"> (1) Count towards the lifetime coverage caps for the child or family; (2) Negatively impact the availability of health insurance for the child and family; (3) Result in the discontinuation of health insurance coverage; or (4) Be the basis for increasing the child's or family's premiums. 	<p>A State may not use the private insurance of a parent of an infant or toddler with a disability to pay for Part C services unless the parent provides parental consent to use private insurance to pay for Part C services for his or her child or the State meets one of the exceptions, including the use of private insurance when such use is a prerequisite for the use of public benefits or insurance.</p> <p>The parental consent requirements do not apply if the State has enacted a State statute regarding private health insurance coverage for early intervention services under Part C, that expressly provides that the use of private health insurance to pay for Part C services cannot:</p> <ul style="list-style-type: none"> (1) 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

			<p>are covered under that health insurance policy;</p> <p>(2) negatively affect the availability of health insurance to the infant or toddler with a disability, the parent, or the child's family members who are covered under that health insurance policy, and health insurance coverage may not be discontinued for these individuals due to the use of the health insurance to pay for services under Part C of the Act; and</p> <p>(3) be the basis for increasing the health insurance premiums of the infant or toddler with a disability, the parent, or the child's family members covered under that health insurance policy.</p>
<p>Procedural Safeguards -- Notice to Parents</p>	<p>The lead agency must give notice that is adequate to fully inform parents about the requirements, including:</p> <p>(a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be</p>	<p>The lead agency must give notice that is adequate to fully inform parents about the requirements, including:</p> <p>(a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;</p> <p>(b) A summary of the policies and procedures that participating agencies must follow</p>	<p>The lead agency must give notice when a child is referred under Part C that is adequate to fully inform parents about the requirements, including:</p> <p>(a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the</p>

	<p>made of the information;</p> <p>(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; and</p> <p>(c) A description of all of the rights of parents and children regarding this information, including the rights under the Part C confidentiality provisions.</p>	<p>regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and</p> <p>(c) A description of all of the rights of parents and children regarding this information, including the rights under the Part C confidentiality provisions.</p>	<p>information;</p> <p>(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;</p> <p>(c) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions; and</p> <p>(d) A description of the extent that the notice is provided in the native languages of the various population groups in the State.</p>
<p>Referral Procedures -- Timeline</p>	<p>Requires referrals to be made no more than two working days after a child has been identified.</p>	<p>Loosens the requirement to making referrals as soon as possible after the child has been identified.</p>	<p>Requires referrals to be made as soon as possible, but in no case more than seven days after the child has been identified.</p>
<p>Use of Public Benefits or Public Insurance to Pay for Part C Services</p>	<p>No provision.</p>	<p>The State may use the public insurance or benefits program of a parent or infant or toddler with a disability, if:</p> <p>(i) The parent or the infant or toddler with a disability is already enrolled or participating in a public insurance or benefits program, provided that the parent provides consent to disclose personally identifiable information;</p> <p>(ii) The parent has not provided consent, but</p>	<p>The State:</p> <p>(i) May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;</p> <p>(ii) Must obtain consent to use a</p>

the infant or toddler with a disability is in foster care and eligible to participate in the public insurance or benefits program; or

(iii) The parent is not enrolled in a public insurance or benefits program but agrees to enroll and provides consent to enroll in a public insurance or benefits program.

If the State requires a parent to pay any types of costs that the parent may incur as a result of participating in a public insurance or benefits program (such as co-payments, premiums or deductibles or the required use of private insurance as the primary insurance), those types of costs must be identified in the State's policies regarding its system of payments; otherwise, the State will not be allowed to charge those costs to the parent.

In obtaining parental consent required under this section, the lead agency must provide a copy of the State's system of payments policies that identify potential costs that the parent may incur while enrolled in a public insurance or benefits program (such as co-payments, premiums or deductibles or the required use of private insurance as the primary insurance by the public insurance or public

child's or parent's public benefits or insurance to pay for Part C services if that use would:

(A) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;

(B) Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;

(C) Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or

(D) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.

(iii) If the parent does not provide consent the State must still make available those Part C services on the IFSP to which the parent has provided consent.

Prior to using a child's or parent's public benefits or insurance to pay for Part C services, the State must provide written notification to the child's

benefits program).

parents. The notification must include:

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

(ii) A statement of the no-cost protection provisions and that if the parent does not provide the consent, the State lead agency must still make available those Part C services on the IFSP for which the parent has provided consent;

(iii) A statement that the parents have the right to withdraw their consent to disclosure of personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

(iv) A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or

		<p>insurance program (such as co-payments or deductibles, or the required use of private insurance as the primary insurance).</p> <p>If a State requires a parent to pay any costs that the parent would incur as a result of the State's using a child's or parent's public benefits or insurance to pay for Part C services (such as co-payments or deductibles, or the required use of private insurance as the primary insurance), those costs must be identified in the State's system of payments policies and included in the notification provided to the parent; otherwise, the State cannot charge those costs to the parent.</p>
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