MICHIGAN DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION

EARLY ON® MICHIGAN
PART C OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

STATE PLAN

OFFICE OF GREAT START
EARLY CHILDHOOD DEVELOPMENT AND FAMILY EDUCATION

March 2016

Michigan State Plan

The Individuals with Disabilities Education Act (IDEA) was reauthorized under IDEA of 2004 (Public Law 108-446). Congress found that there was an urgent and substantial need:

1. to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first three years of life;
2. to reduce the educational costs to our society, including our nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;
3. to maximize the potential for individuals with disabilities to live independently in society;
4. to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and
5. to enhance the capacity of state and local agencies and early intervention service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city and rural children, and infants and toddlers in foster care.

The U.S. Department of Education (USED), Office of Special Education Programs (OSEP), released the Rules and Regulations (34 CFR Part 303) pertaining to the enacted legislation, as published in the Federal Register on Wednesday, September 28, 2011, Volume 76, Number 188.

The plan provides information regarding the integration of these regulations into the *Early On* system in Michigan. To the extent possible, the plan follows the layout of the regulations, and also excludes any definitions that are already provided in those regulations and need no further definition. Details to guide implementation are available through documents, trainings, and other forms of guidance. In addition, Michigan is a "birth mandate" state, and as such provides support and/or services to individuals from birth to age 26 who meet the eligibility definitions put forth in the Michigan Administrative Rules for Special Education (MARSE) under Michigan Compiled Laws (MCL) at no cost to the family. Any child birth to age three who qualifies under the Michigan Mandatory Special Education Act (MMSEA) is also eligible for *Early On*.

On October 22, 1987, Michigan Governor James Blanchard signed Executive Order 1987-11, creating the first interagency coordinating council and designating the Michigan Department of Education (MDE) as the state lead agency for implementing the system of supports for families with infants and toddlers with disabilities.

Questions regarding this document should be forwarded to:

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Michigan State Plan
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Section A:
Items Aligned with Subpart A of Federal Regulations 34 CFR 303.1 through 303.37

General

I. Purpose, Recipient, Eligible Contractors, and Applicable Regulations

Purpose of the early intervention program for infants and toddlers with disabilities (§ 303.1)

The State of Michigan is an eligible recipient of Part C of IDEA funds and has designated MDE as the lead agency. MDE, along with contracted local lead agencies, implements the purpose of this part, which is to provide assistance to:

- maintain and implement a local, coordinated, comprehensive, multidisciplinary interagency system of early intervention services for eligible infants and toddlers with disabilities and their families;
- facilitate the coordination of payment for early intervention services from Federal, State, local and private sources (including public and private insurance coverage to the extent noted in Michigan's system of payments policy);
- enhance the capacity of the local communities 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; and
- enhance the capacity of the local community to identify, evaluate, and meet the needs of historically under-represented populations, particularly minority, low-income, inner-city and rural populations and infants and toddlers in foster care.

Recipient, eligible contractors (§ 303.2)

Part C of IDEA funds are awarded to MDE as the designated lead agency, authorized for spending by the Michigan Legislature through section 51d(2) of the State School Aid Act, and distributed by formula to local lead agencies as eligible contractors. All local intermediate school districts are eligible contractors. The Federal Regulations (34 CFR 303) apply to MDE, as well as all local lead agencies that are part of the statewide system of early intervention, whether or not those local lead agencies receive Part C funds.

Limitation of provisions for eligible children (§ 303.2)

The provisions under the Part C regulations do not apply to services being provided any child with disabilities receiving a free appropriate public education (FAPE), in accordance with 34 CFR 300, and those funds received under 34 CFR 300.

Applicable regulations (§ 303.3)

The following regulations apply for implementation of Part C:

A. The regulations in 34 CFR 303.
B. The Education Department General Administrative Regulations (EDGAR), including 34 CFR parts 76 (except for § 76.103), 77, 79, 80, 81, 82, 84, 85, and 86.

II. Definitions

In order to implement *Early On*, Michigan has adopted the definitions provided in the IDEA and in the Federal rules and regulations for Part C of IDEA (34 CFR 303). The definitions provided in §§ 303.4 through 303.37 are reproduced in their entirety in Appendix A to provide easy reference when seeking guidance from this plan. Appendix A also integrates definitions that appear in other sections of the Federal Regulations.

The definitions provided in this section of the document are Michigan's clarification of Federal terms and definitions or additional definitions required to guide the implementation of the *Early On* system.

Assessment, in addition to the federal definition in Appendix A, includes the Michigan requirement for an observational assessment of parent(s)/caregiver and child interactions.

Day means calendar day, unless otherwise specified.

Developmental Delay means:

A. A delay:
   1. Of any magnitude (i.e., any delay) for a child up to two months old (adjusted age).
   2. Of 20 percent (or one Standard Deviation below the mean) for a child two months to 36 months old.
B. In one or more areas of development (cognitive; physical, including gross and fine motor; communication; social/emotional; adaptive).
C. As measured by an acceptable developmental evaluation method or tool applying informed clinical opinion.

Section D of this State Plan includes the evaluation and assessment procedures to be used for each of the domains noted in B. (Also see Appendix A.)

***Early On* or *Early On* Michigan** means the early intervention services system for infants and toddlers and their families in Michigan under Part C of IDEA.

***Early On* Service Area (or local service area)** means a designated local area committed to a coordinated effort, by mutual agreement, of agencies and organizations that contribute to meeting the identified outcomes for children and their families eligible for, and enrolled in, Part C of IDEA. The geographical boundaries are that of an ISD.

***Early On* Service Provider,** in addition to the federal definition in Appendix A for an early intervention service (EIS) provider, Michigan includes the following requirements:

A. Meets the provider qualifications defined in Federal law and in Michigan's procedures for Part C of IDEA.

B. Meets provider qualifications defined in other funding streams if those funds will be used to provide *Early On* services.
C. Is trained in *Early On* procedural safeguards.
D. Provides services for a family enrolled in *Early On* in compliance with Part C of IDEA and Michigan's State Plan for Part C of IDEA.

***Early On* Services**

A. Are designed to meet the developmental needs of each child eligible under Part C and the needs of the family related to enhancing the child's development.
B. Are designated as *Early On* services per signed, written agreement (state or local) pertaining to *Early On* service provision.
C. Are selected in collaboration with the parents.
D. Are provided:
    1. Under public supervision.
    2. By qualified personnel, as defined in the State Plan and including the types of personnel listed in the personnel standards.
    3. In conformity with an Individualized Family Service Plan (IFSP).
    4. At no cost to the family.
    5. Specific to the individual child's and family's needs throughout the entire calendar year.
E. Meet the standards of the State, including the requirements of Part C of IDEA.

***Early On* System** is the coordinated state effort, by mutual agreement, of agencies and organizations that contribute to meeting the identified outcomes for children and their families eligible and enrolled in Part C of IDEA.

Established condition means a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Evaluation Instrument means a criterion-referenced or norm-referenced instrument used to determine a child's eligibility for *Early On* based on qualifying developmental delay in one or more of the following areas: cognitive development; physical development (including vision and hearing); communication development; social emotional development; or adaptive development.

Exceptional Family Circumstances means documented circumstances based upon unavailability of the parent or child that do not allow a timeline to be met.

Health Status Report means documentation of the child's health status, including vision and hearing, by qualified personnel completed within the 45-day timeline. This should include medical information that documents any diagnoses that may make a child eligible for *Early On*. Health status report should include current status from a physical examination conducted within

the past three months for a child under 18 months of age or within the past six months for a child over 18 months of age.

Informed Clinical Opinion (ICO) is an independent methodology used by qualified personnel during evaluation and assessment processes in order to make a recommendation as to initial and continuing eligibility for services under Part C and as a basis for planning services to meet child and family needs. ICO makes use of qualitative and quantitative information to assist in forming a determination regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention.[1]

Initial IFSP Meeting is a meeting held by a team defined in 34 CFR 303.343 to develop the child's first IFSP, following procedures that are outlined in 34 CFR 303.342, attending to all elements of content required under 34 CFR 303.344. Section D of this document provides further information regarding development of the IFSP.

Intermediate School District (ISD) means the intermediate educational units in Michigan established by State law which provide special education and related services to children with disabilities in the state.

Local lead agency is the public agency with whom MDE contracts to implement Part C of IDEA and is the entity responsible for assuring early intervention services for a geographical area. At this time, Michigan contracts solely with ISDs.

Local Interagency Coordinating Council (LICC) means the interagency coordinating councils, established through local lead agencies in Michigan, which advise and assist the local lead agencies and participating agencies in the coordination of early intervention services for infants and toddlers with special needs. Local lead agency requirements for an LICC are detailed in the local lead agency contract with MDE.

Medical Information means information from a qualified health care professional documenting any diagnoses that may make the child eligible for *Early On*.

Michigan Interagency Coordinating Council (MICC) means the state interagency coordinating council (also referred to as the Council) which advises and assists MDE in matters related to *Early On*.

Michigan Mandatory Special Education Act (MMSEA) is a Michigan state law passed in 1971, ensuring special education to resident children with disabilities from birth to age 26. Services provided under this act are known as Michigan Mandatory Special Education (MMSE).

[1] Shackleford, J. (May 2002). Informed Clinical Opinion. The National Early Childhood Technical Assistance Center, University of North Carolina, Chapel Hill, NC.

Observational Assessment is a component of the child assessment process that includes observing the infant or toddler with parent(s) and/or primary caregiver(s) within the context of his or her caregiving environment, during caretaking or play activities, as well as during other natural interactions.

'Other' Services means services that do not meet the definition of *Early On* services (see definition for ***Early On* Services**).

Part C means the "Early Intervention System for Infants and Toddlers with Disabilities" presently codified as Part C of IDEA (known in Michigan as *Early On*).

Partner Agencies means the parties who have signed partnering certifications and assurances related to provision of Part C, including MDE and the Michigan Department of Health and Human Services (including public health, mental health, human services, and Medicaid) (MDHHS).

Potentially eligible for Part B, section 619 services, for purposes of data collection, means children participating in Part C who have been determined eligible for, and are receiving, Michigan Mandatory Special Education services prior to two years, nine months of age.

Referral is defined as the process by which the local lead agency is notified of a suspected developmental delay or established condition for an infant or toddler, birth to age three. Receipt of this notification denotes the beginning of the post-referral timeline under § 303.310.

Screening is an optional implementation of procedures found in § 303.320(3)(b) by personnel trained to administer appropriate instruments.

Service Coordination means the activities carried out by qualified personnel to:

A. Assist and enable an eligible child and the child's family to receive *Early On* and other services identified in the IFSP.
B. Facilitate compliance with the family's rights and procedural safeguards.
C. Facilitate the timely delivery of services.
D. Continuously seek the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.

State refers to the State of Michigan.

State Board of Education (SBE) means the Michigan State Board of Education, the constitutionally-designated, elected policy-making body for the lead agency in Michigan.

Timely Service is defined as the provision of each service as soon as possible, but no later than 30 calendar days from when a parent/guardian provides written consent to the provision of that early intervention service.

Transition Conference is a meeting to discuss the toddler's exit from *Early On* to preschool or other appropriate services.

Transition Notification means the action taken, as required in § 303.209(b), on the part of the local lead agency to notify both the state and local education agency that a child is potentially eligible for Part B services.

Transition Plan is the part of the IFSP that addresses the end of *Early On* services and the toddler's transition to other programs or services.

Section B:
Items Aligned with Subpart B of Federal Regulations 34 CFR 303.100 through 303.126

Foundations of a Statewide System

I. Authority, Michigan Eligibility, and Other General Provisions

Michigan authority (§ 303.100)
MDE is the designated state lead agency in Michigan tasked with utilizing the Federal grant to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

Michigan eligibility (§ 303.101)
It is the policy of the State of Michigan that appropriate early intervention services are available to all eligible infants and toddlers with disabilities in the state and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State. The State implements a statewide comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services, for infants and toddlers with disabilities and their families, that meet the requirements of section 635 of IDEA (20 U.S.C 1435), as well as 34 CFR 303.111 through 303.126.

Michigan is a "birth mandate" state, and as such provides support and/or services to individuals from birth to age 26 who meet the eligibility definitions put forth in MARSE under MCL at no cost to the family. Any child birth to age three who qualifies under MMSE is also eligible for *Early On*.

MDE submits the required assurances with the annual application to USED. The annual application (including assurances) provides MDE with an opportunity to submit revisions to existing policies or procedures, or to propose new policies so that Michigan implements a system to conform to the purposes and requirements established in statute. MDE assures that approval from USED will be obtained prior to implementing any new or amended policy or procedure related to the required items in § 303.101(c).

Other general provisions (§§ 303.102 – 303.105)
Michigan assures Part C rules, regulations, and policies conform to the purposes and requirements established in statute. In addition, Michigan recognizes that it is not immune from being sued in Federal court for a violation of the statute, and may access allowable remedies should there be a violation suit.

Should Michigan desire to utilize any Part C funds to acquire equipment, or to construct or alter facilities, it would first seek permission from USED, and would assure that such acquisitions, construction or alterations comply with the Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities or the Uniform Federal Accessibility Standards, as referenced in §§ 303.104(b)(1) and 303.104(b)(2).

The State of Michigan provides open access to all employment positions, seeking qualified individuals to fill positions, including those with disabilities. Further, each local lead agency, as well as each contractor who receives Part C funds for mandated activities, certifies and assures that, "In accordance with Title II ADA provisions, the applicant has conducted a review of its employment and program/service delivery processes and has developed solutions to correcting barriers identified in the review."

II. Components of a Statewide System

Statute and Federal regulations require that each state provide the minimum of the following components (§ 303.110).

Definition of Developmental Delay (§ 303.111)
Michigan has a definition of developmental delay found in the definitions in Section A of this Plan. Procedures in Section D of this Plan assure the identification of all infants and toddlers meeting Michigan's criteria for an infant or toddler with a disability.

Availability of Early On (§ 303.112)
It is the policy of the State of Michigan to ensure that appropriate early intervention services based on scientifically-based research, to the extent practicable, are available to all eligible infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the state and infants and toddlers with disabilities who are homeless children and their families in accordance with 20 U.S.C. 1435(a)(2).

Evaluation, assessment, and nondiscriminatory procedures (§ 303.113)
Michigan has in effect a system, operated through the local lead agencies, with the ability to provide a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the state, and a family-directed identification of the needs of each family of such an infant or toddler, to assist appropriately in the development of the infant or toddler in accordance with 20 U.S.C. 1435(a)(3). Further discussion regarding the process of evaluation and assessment is provided in Section D of this plan.

IFSP (§ 303.114)
Michigan has a prototype format for an IFSP that meets the requirements of what must be documented, as well as processes and procedures for development and implementing the IFSP (including service coordination services). Michigan assures that each infant or toddler with a disability and his or her family in the state is provided the support required in the law. Further discussion regarding the IFSP form and process is provided in Section D of this plan.

Comprehensive child find system (§ 303.115)
Michigan has a comprehensive child find system, including a system for making referrals to local lead agencies. This includes timelines and provides for participation by primary referral sources. The child find system ensures rigorous standards are implemented to appropriately identify infants and toddlers with disabilities for services under *Early On* that will reduce the need for future services. Further discussion regarding child find is provided in Section D of this plan.

Public awareness program (§ 303.116)
Michigan has a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the MDE and *Early On* service areas of information to be given to parents, to all primary referral sources, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities. Further detail regarding public awareness activities is provided in Section D of this plan.

Central directory (§ 303.117)
Michigan has a central directory that includes information on early intervention services, resources, and experts available in the state, professionals and other groups, and research and demonstration projects being conducted in the state. The central directory is maintained and updated as an on-line resource with on-demand print capability. Further detail regarding the central directory is provided in Section D of this plan.

Comprehensive system of personnel development (CSPD) (§ 303.118)
Through issuance of a mandated activities project contract, Michigan has developed a comprehensive system of personnel development, including the training of assistants and primary referral sources with respect to the basic components of early intervention services available in the state that includes:

A. Training personnel in implementing innovative strategies and activities for the recruitment and retention of *Early On* service providers;
B. Promoting the preparation of *Early On* service providers who are fully and appropriately qualified to provide early intervention services under Part C; and
C. Training personnel to coordinate transition services for infants and toddlers served under *Early On* from a program providing early intervention services under *Early On,* or under both *Early On* and MMSE, to a preschool program receiving funds under section 619, Early Head Start, Head Start, or another appropriate program; and may include:
    - training personnel to work in rural and inner-city areas;
    - training personnel in the emotional and social development of young children;
    - training personnel to support families in participating fully in the development and implementation of the child's IFSP; and
    - aligning standards for training personnel who provide services under *Early On* to be consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood

Education and Care established under the Head Start Act, once such standards are promulgated.

Personnel standards (§ 303.119)
Michigan has policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to implement *Early On* are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which personnel are providing early intervention services. Assistants who are appropriately trained and supervised in accordance with Michigan law, regulation, or written policy, may assist in the provision of *Early On*. Further, it is the policy of Michigan that appropriately and adequately trained personnel are hired to provide *Early On* services, including, in a geographic area 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 State personnel standards.

MDE's role in supervision, monitoring, funding, interagency coordination, and other responsibilities (§ 303.120)
As the Governor-designated lead agency for Part C in Michigan, MDE accepts responsibility for the general administration and supervision of all aspects necessary to implement the system, including the local lead agencies and mandated activity project contractors, and will enforce the obligations that those entities have to statute and regulation. MDE will provide technical assistance, closely monitor, and assure the correction of noncompliance as soon as possible and in no case later than one year after identifying the noncompliance. Monitoring and enforcement as required under §§ 303.700 through 303.707 is further described in Section H of this plan. Further, Section F of this plan identifies the system of payments developed for *Early On* assuring that the assignment of financial responsibility for early intervention services is identified. Section F also references the dispute resolution assurances developed with State interagency partners.

State policy for arranging Part C services (§ 303.121)
MDE, through approved SBE processes, identifies Federal funds to support *Early On* services, and distributes those funds by formula to each of the local lead agencies. Annually, local lead agencies provide certifications and assurances that include the requirement that all services meet State standards consistent with Part C, and consistent with the Federal financial regulations as published in the EDGAR in 34 CFR 80.

All allocations or other contracts for *Early On* services must meet criteria approved by the SBE and as recommended by the Michigan Interagency Coordinating Council (MICC), as appropriate. Such criteria are incorporated into all contract and allocation applications and must be reflected in any contracts which are directly made by the lead agency, the local lead agency,

or any other provider agency receiving funds or delivering services under *Early On*.

Allocations to the local lead agencies in Michigan require compliance with detailed application processes which include: all necessary assurances for the receipt and use of Federal funds; compliance with the regulations under Part C; and compliance with all pertinent State laws, rules, and regulations.

Allocations to the local lead agencies in Michigan require that the use of Part C funds adhere to a collaborative plan for the delivery of *Early On* services developed by the LICC; signatures of the fiscal agents or those delegated by the administrators of the participating agencies must be provided as assurance of collaboration in the development of the plan for services and funding, including any and all contracts or other manner of paying for the delivery of *Early On* services. All providers of *Early On* services must comply with all Federal and State laws, regulations, and rules as identified or referenced in the *Early On* Michigan State Plan.

Any provider or recipient of funds under Part C that is found in noncompliance with this policy may be determined ineligible for future Part C funding, or may have the contract terminated in whole or part, or may be suspended from consideration for any continuing participation in the *Early On* system/local *Early On* service area.

Components of a local early intervention contract application

Funds provided are for the purpose of each local *Early On* service area to:

A. Help in the facilitation of a statewide, comprehensive, coordinated, multidisciplinary, family centered, interagency system of early intervention services to eligible infants and toddlers and their families.
B. Expand and improve existing early intervention services being provided to eligible infants and toddlers and their families through coordination of existing referral and service delivery systems.
C. Provide direct early intervention services to eligible infants and toddlers and their families when no other resources for these services are available. Those eligible for services through this system will include infants and toddlers, birth to age three, who need early intervention services because they:
    1. Are experiencing developmental delay, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, communication development, social or emotional development or adaptive development, or
    2. Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

Reimbursement procedures (§ 303.122)

MDE has developed the Cash Management System (CMS), which is tied to the Michigan Electronic Grants System *Plus* (MEGS+), to assure that all appropriately budgeted funds allocated to local lead agencies are available,

as needed, to reimburse eligible expenditures for early intervention programming.

Any reimbursement for early intervention services, eligible health services, and other functions and services authorized by Part C of IDEA including child find, evaluation, and assessment, must be made within 60 days of notification from the provider of services.

Procedural safeguards (§ 303.123)
MDE has procedural safeguard documents, training, and processes in place as outlined in Section E of this plan.

Data collection (§ 303.124)
Beginning July 1, 2012, data to meet the Part C system Federal reporting requirements are collected in MEGS+, and MSDS, as well as a supplementary system for confidential reporting of family outcomes provided by a mandated activities project known as the Qualitative Compliance Information Project. Michigan has utilized a Federally-approved sampling method to compile data for Federal reporting.

MSDS allows local lead agencies to translate files from their data management systems to upload the basic demographic data on all children enrolled in *Early On*, assigning a unique identification code (UIC) to each child. MSDS builds a secure, confidential record of elements needed for Federal reporting.

State interagency coordinating council (§ 303.125)
The Governor appoints members to the MICC that meet the requirements of both statute and regulation. Complete information is contained in Section G of this plan.

Early intervention services in natural environments (§ 303.126)
Michigan has policies and procedures in place to assure that, to the maximum extent appropriate, all *Early On* services documented on the IFSP are provided in natural environments. Parents and the IFSP team may determine that settings other than the natural environment are most appropriate, but only when the *Early On* services cannot be achieved satisfactorily in a natural environment.

Section C:
Items Aligned with Subpart C of Federal Regulations 34 CFR 303.200 through 303.236

Michigan's Application for the Federal Grant; Assurances; Program and Service Components of a Statewide System of Early Intervention Services

I. State Application and Assurances

State application and assurances (§ 303.200)
MDE, as the State lead agency, will annually submit an application, with certifications and assurances, in the form and manner as issued annually by USED.

II. Application Requirements/System Requirements

Designation of lead agency (§ 303.201)
The annual application for Federal funds will be submitted by MDE as the designated State lead agency. The signatory for MDE is the State Superintendent of Public Instruction.

Certification regarding financial responsibility (§ 303.202)
Responses in the annual application for Federal funds submitted by MDE include certification requested by USED that financial responsibilities for provision of *Early On* among public agencies, as well as the local lead agencies, meet statutory and regulatory requirements.

Statewide system and description of services (§ 303.203)
Michigan has adopted the definition of early intervention services as a description of services (§ 303.13) that are available to infants and toddlers with disabilities through the local lead agencies. Michigan responds to federal requirements regarding the policies and procedures for resources in the state that might support early intervention, and the system of payments policy, as well as either submitting or assuring that the State has submitted the most current rigorous definition of developmental delay adopted by the State. Further information regarding Michigan's system of payments and other financial expectations is contained in Section F of this plan.

At-risk infants and toddlers (§ 303.204)
Infants and toddlers at risk of developmental delay are not entitled to services using Part C funds in Michigan. Thus, there is no definition of eligibility and description of services for children in this category; however, a reference is provided when discussing the duties of the MICC under Section G of this plan.

Description of use of funds (§ 303.205)
The Federal Part C allocation for Michigan supports management, consultant, technical, and support staff necessary for the basic administration of the early intervention services system within the lead agency and for the MICC. A portion of the Federal allocation to Michigan is used to support State-initiated activities and projects.

A significant portion of the fiscal year Federal allocation will be used for planning, development, and implementation activities including those which are State initiated, those which are required by Federal regulation, those which include direct services to the eligible population, and those which

include assignment of activities to participating agencies. In combination, these activities assist the State in achieving continuous progress toward a vision of community-based, family centered, and culturally competent early intervention services which are coordinated, easily accessible, and produce optimal outcomes for children and families. The local lead agencies annually review a detailed list of expectations included as part of the contract/application posted in MEGS+.

When submitting the annual application, Michigan provides a description of the activity and its scope, details any activities of other public agencies that receive Part C funds, and summarizes the purposes of the use of the funds.

Referral policies for specific children (§ 303.206)
Section D of this plan includes the referral policies that have been developed and implemented to attend to the needs of infants and toddlers referred due to being the subject of a substantiated case of child abuse or neglect or having been drug exposed.

Availability of resources (§ 303.207)
Formula allocations are distributed to local lead agencies to support the continued development and delivery of a comprehensive, coordinated, multidisciplinary, interagency program of early intervention services to eligible infants and toddlers and their families.

Public participation policies and procedures (§ 303.208)
The State publishes any application in a manner that will ensure circulation throughout the state for at least a 60-day period prior to submission to USED, with an opportunity for comment on the application and any policies, procedures, descriptions, methods, certifications, assurances and other information required in the application, for at least 30 days during that period.

In addition, with regard to any new policy that the State seeks to implement, or any revision to an existing policy or procedure needed to comply with Federal statute or regulations, Michigan recognizes that public hearings must also be held, and ensures that:

> The announcement of the new policy, period of public comment and public hearings scheduled will be published in a manner that will ensure circulation throughout the state; timed so that there is at least a 60-day period of public scrutiny, with an opportunity of public participation for comment on the policy for at least 30 days during that period. Notice of the public hearings must be made at least 30 days before the hearings are conducted. The announcement must include enough detail about the policy with regard to the purpose, scope, and relationship to Part C. The announcement must also include the length of comment period, date, time, and location of each hearing. Notice must include information for providing oral and/or written comments. All hearings will be held in barrier-free facilities and interpreters for

persons with hearing impairment and other ADA special accommodations will be available upon request. The State will utilize technology so that public hearings are available across the state and all interested parties have an opportunity to attend.

When determined appropriate, a group of stakeholders will be convened in order to respond to comment and amend the application or new policy.

III. Transition

Transition to preschool and other programs (§ 303.209)
The State has developed procedures for transitioning infants and toddlers under the age of three and their families from *Early On*. Some of the toddlers are eligible for early childhood special education programs under Part B and MMSE, while others are eligible for related special education services defined in the MARSE. Still others will exit *Early On* with sufficient growth in their development to no longer require special services.

As required in regulation when the Part C lead agency (MDE) is the State Education Agency (SEA), an intra-agency agreement was drafted for submission to USED. That intra-agency agreement between the unit within the MDE Office of Great Start/Early Childhood Development and Family Education (OGS/ECDFE) administering Part C and the unit within MDE OGS/Preschool and Out-of-School Time Learning administering Part B, section 619, ensures administrative oversight of the transition requirements outlined in statute and regulation.

Transition notification to SEA and LEA
All toddlers receiving services under MMSE may be eligible for, and therefore are considered "potentially eligible" for, preschool special education services under Part B of the Act. For any toddler receiving *Early On* services, and who may be eligible for preschool services under Part B of IDEA, Federal regulations require a notification be sent to the SEA and the Local Education Agency (LEA) where the child resides. The report notifies the SEA and the LEA that the toddler will reach the age of eligibility for services under Part B of the Act on his or her third birthday.

The following expectations regarding transition notification apply:

A. Notification must occur not fewer than 90 days before the toddler's third birthday.
B. If the toddler is determined eligible for early intervention services under *Early On* more than 45 days, but less than 90 days before that toddler's third birthday, and s/he may be eligible for preschool services under Part B of the Act, the local lead agency, as soon as possible after determining the child's eligibility, notifies the SEA and LEA for the area in which the toddler resides.
C. If the toddler is referred to *Early On* fewer than 45 days before that toddler's third birthday and the toddler may be eligible for preschool services under Part B of the Act, the local lead agency refers the toddler

to the SEA and LEA for the area in which the toddler resides; but the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting.

The lead agency must disclose to the SEA and to the LEA where the toddler resides, the following personally identifiable information under the Act, as allowed under § 303.401(d):

A. The child's name.
B. The child's date of birth.
C. Parent contact information (including parents' names, addresses, and telephone numbers).

The local lead agency for Part C will send a communique to the child's resident local education agency (LEA) that the child has received support from Part C, has been determined potentially eligible for Part B, and will shortly turn three years old and exit the Part C program. This notification will also serve as the SEA notification regarding a toddler exiting Part C and potentially eligible for Part B, section 619. In addition, the local lead agency for Part C will confirm notification to the SEA via the state student data system. The notifications to both LEA and SEA shall occur not fewer than 90 days prior to the child's third birthday as required by 34 CFR 303.209(b). For children found eligible for Part C services more than 45 days but less than 90 days before that toddler's third birthday, the notification will take place as soon as possible after determining the toddler's eligibility. The notifications to the SEA and LEA will include the child's name, date of birth, and parent contact information (including names, addresses, and telephone numbers).

Transition conference to discuss services

For a child who is potentially eligible for preschool services under Part B of the Act:

> With the approval of the family, the local lead agency convenes a conference, among the lead agency, the family and the LEA, not fewer than 90 days and at the discretion of all parties, not more than nine months, before the toddler's third birthday to discuss any services the toddler may receive under Part B of the Act.

For a child who is not potentially eligible for preschool services under Part B of the Act:

> With approval of the family, the local lead agency makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that toddler may receive.

Transition plan

A transition plan is required for all toddlers with disabilities. The local lead agency must:

A. Review the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;
B. Ensure the family of a toddler with a disability who is served under Part C is included in the development of the transition plan; and
C. Establish a transition plan in the IFSP, not fewer than 90 days and at the discretion of all parties, not more than nine months, before the toddler's third birthday.

The transition plan is embedded in the IFSP and includes the steps to exit from *Early On*, and the steps and services to be taken to support the smooth transition of the child to preschool programs or related services under Part B of IDEA (to the extent that those services are appropriate and the child is eligible), or to other services that may be available (if appropriate, particularly for those toddlers exiting *Early On* and who are not currently eligible for MMSE). The regulations (§ 303.344(h)(2)) identify the following steps to support a smooth transition for toddlers and their families:

A. Have discussion with, and offer training of parents, as appropriate, regarding future placement and other matters related to the child's transition;
B. Identify procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;
C. Confirm that the child find information about the child has been transmitted to the LEA or other relevant agency, following notification procedures and procedural safeguards, and also transmit any additional information needed by the LEA to ensure continuity of services from *Early On* to a Part B program or related services. This additional information may include a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed; and
D. Identify transition services and other activities that the IFSP team determines are necessary to support the transition of the child.

Transition conference and meeting to develop transition plan

The conference to discuss transition services and the meeting to develop the transition plan:

A. May be combined into one meeting.
B. Must be conducted:
    1. In settings and at times that are convenient for the family; and
    2. In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.
C. Requires that:
    1. The meeting arrangements be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.
    2. The contents of the IFSP be fully explained to the parent, and informed written consent must be obtained prior to the provision of early intervention services described in the IFSP.
    3. Each early intervention service must be provided as soon as possible after the parent provides consent for that service.

4. The following participants are included:
    a. The parent or parents of the child.
    b. Other family members, as requested by the parent, if feasible to do so.
    c. An advocate or person outside of the family, if the parent requests that the person participate.
    d. The service coordinator designated by the local lead agency to be responsible for implementing the IFSP.
    e. A person or persons directly involved in conducting the evaluations or assessments.
    f. As appropriate, the persons who will be providing early intervention services to the child or family.
    g. The LEA or providers of other appropriate services.
5. If a person or persons directly involved in conducting the evaluations or assessments is unable to attend the 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.
    c. Making pertinent records available at the meeting.

Coordination with Head Start and Early Head Start, early education, and child care programs (§ 303.210)

On June 29, 2011, the Governor of Michigan signed Executive Order 2011-8 which created the Office of Great Start (OGS) in the MDE. OGS brought child development and care subsidy and quality programs, as well as the Head Start State Collaboration Office, to MDE to join existing early childhood programming including *Early On*, early childhood special education (Part B, section 619), and the Great Start Readiness Program (the State-funded prekindergarten program) under one office. OGS is charged to align the State's early learning and development investments to achieve a single set of shared outcomes. Individuals with leadership roles from OGS participate in the Great Start Operational Team, which serves as the State Advisory Council convened under the Head Start Act.

State option to make services under this part available to children ages three and older (§ 303.211)

Michigan does not offer Part C services to children ages three and older, as allowed under Federal statute and regulations. However, this does not preclude activities occurring during the transition from *Early On* to Part B, section 619.

Additional information and assurances (§ 303.212)

Through submission of the Federal application, MDE annually updates USED on the steps being taken to ensure equitable access to, and equitable participation in *Early On*.

IV. Assurances

Assurances satisfactory to the secretary (§ 303.220)
The Federal application that is submitted to USED includes the assurance that the State is meeting requirements regarding the following components that are outlined in the regulations (34 CFR 303.221 through 303.227).

Expenditure of funds (§ 303.221)
MDE annually assures that the Part C funds are expended in accordance with provisions in statute. Section F of this plan provides further information regarding use of funds and the State's oversight.

Payor of last resort (§ 303.222)
Michigan has a policy regarding payor of last resort that is provided in Section F.

Control of funds and property (§ 303.223)
Michigan provides assurance that Part C funds, and any property acquired with those funds, are for the uses and purposes of Part C, and only public agencies administer the funds and property.

Reports and records (§ 303.224)
Michigan assures that it makes reports to USED in the form and manner requested, containing the information requested, and maintains records that are accessible to USED for purposes outlined in regulation and statute, including determining the correctness and verification of the reports, and appropriate use of funds.

Prohibition against supplanting; indirect costs (§ 303.225)
Michigan provides assurance that Part C funds are not commingled with State funds, and are used to supplement the level of both State and local funds expended for infants and toddlers in *Early On*.

Fiscal control (§ 303.226)
Michigan provides assurance that the procedures in place regarding fiscal control and fund accounting ensure the proper disbursement and accounting for Part C funds.

Traditionally underserved groups (§ 303.227)
The State ensures that policies and procedures have been adopted to address meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of Part C, and further assures that these families have access to culturally competent services within their local geographical areas.

V. Subsequent Applications and Modifications; State Acknowledgement of USED's Actions and Procedures

Subsequent applications and modifications of application (§ 303.228)
Michigan acknowledges that there are policies, procedures, methods or assurances that may have been submitted to USED prior to enactment of IDEA 2004 that meet all requirements of the Act and thus, remain in effect. Further, it is understood that once an application is on file with USED that meets requirements of the Act, it will remain in effect until Michigan submits to USED any modifications that the State deems necessary. It is further acknowledged that USED may require modifications to the Michigan application to ensure the State is in compliance with statute and regulations, or should a new interpretation of statute be made in Federal court or the Michigan Supreme Court, or there is an official finding of Michigan's noncompliance with Federal law or regulations.

USED actions regarding Michigan's application (§§ 303.229 – 303.236)
Statute and regulations provide Michigan with clear steps that USED will take once the application for Federal funds to implement Part C has been submitted. Those steps include notification by USED that the State is eligible to receive funds, or that the application fails to meet requirements. Disapproval would not be finalized until USED has given notice and provided an opportunity for a hearing. Should the State request that hearing, USED has explicit procedures that must be followed that also outline the responsibilities of the State during that period. Further, regulations provide information regarding the steps taken as a result of a hearing convened for this purpose. The regulations also provide explicit instructions regarding filing of any written items. Additionally, it is understood that the State may file a petition for review in the Sixth Circuit Court of Appeals if it is dissatisfied with the final decision.

Section D:
Items Aligned with Subpart D of Federal Regulations 34 CFR 303.300 through 303.346

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

General (§ 303.300)
In order to implement the statewide comprehensive, coordinated, multidisciplinary interagency system to provide early intervention services for infants and toddlers with disabilities and their families, Michigan has pre-referral, referral, and post-referral policies and procedures that guarantee compliance with timeline requirements that ensure responsive intervention for infants and toddlers. A screening policy has been adopted for those local lead agencies that choose to utilize screening after referral, and the statewide system carries out assessments and evaluations that inform the development, review and implementation of IFSPs for eligible children and their families.

I. Pre-Referral Procedures

Public awareness program (§ 300.301)
MDE, under advisement from the MICC, has developed a comprehensive information dissemination plan for *Early On* which focuses broadly on public awareness activities and specifically on early identification outreach and information dissemination.

Families, individuals, and primary referral sources in contact with children under three years of age who may benefit from early intervention services have access to information and materials regarding the availability of early intervention services in Michigan. A coordinated public awareness effort at both the State and local level is designed to provide information about child development and *Early On* in Michigan for *Early On* service providers, parents, and the general public.

The State-level public awareness items may be supplemented by those produced locally. All the information on early intervention services that is produced will be directed to various agencies, organizations, and families. The network of dissemination includes *Early On* service areas, LICCs, all primary referral sources, public and private nonprofit providers, and family advocacy groups, as well as other interested organizations, agencies, or persons. Dissemination procedures assist primary referral sources in distributing the public awareness information provided to them.

Public awareness regarding early intervention services, referral, and access
Early On materials, brochures, videos, public service announcements, presentation folders, and press kits are distributed throughout the state. Materials are translated into other languages as appropriate.

Michigan hospitals that deliver babies and those that have neonatal intensive care units are identified and targeted by an outreach campaign that includes communication about *Early On* services. *Early On* public awareness materials are available to hospitals.

The Michigan *Early On* public awareness contractor is responsible for distributing correct and consistent information regarding *Early On.* At a minimum, the public awareness contractor will disseminate information

regarding *Early On* to all mandated referral sources. The information provided includes descriptions of the availability of services under *Early On*, as well as a description of the child find system and how to refer a child for an evaluation or early intervention services. Articles about *Early On* are included in professional and parent periodicals that are distributed throughout the state.

Central directory
MDE or its designee will produce the central directory. The central directory is web based and includes lists and descriptions of public and private early intervention services, resources, and experts available in the state; research and demonstration projects being conducted in the state; and professional and other groups that provide assistance to children eligible under Part C and their families.

Specific information regarding toddlers with disabilities
Specific public awareness information has been developed to assist parents in understanding the activities and steps surrounding the transition of toddlers from *Early On* as they reach their third birthday.

Comprehensive child find system (§ 303.302)
Michigan has a comprehensive child find system that:

A. Is consistent with Part B of IDEA (see 34 CFR 300.111);
B. Includes a system for making referrals to local lead agencies under this part that—
   1. includes timelines; and
   2. provides for participation by the primary referral sources described in § 303.303(c);
C. 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
D. Meets the requirements in the following four paragraphs and §§ 303.303, 303.310, 303.320, and 303.321.

MDE, as part of the child find system, ensures that:

A. All infants and toddlers with disabilities in the state who are eligible for early intervention services under Part C of IDEA are identified, located, and evaluated, including:
   1. Indian infants and toddlers with disabilities residing on a reservation geographically located in the state (including coordination, as necessary, with tribes, tribal organizations, and consortia to identify infants and toddlers with disabilities in the state based, in part, on the information provided by them to the lead agency under § 303.731(e)(1));
   2. Infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and
   3. Infants and toddlers with disabilities that are referenced in § 303.303(b).

B. An effective method is developed and implemented to identify children who are in need of early intervention services.

A mandated activities project contract is issued to the Inter-Tribal Council of Michigan to ensure that specific awareness regarding early intervention services occurs for Indians living on tribal lands or with tribes and tribal organizations. An interagency collaborative contract with MDHHS assures that specific outreach is provided to infants and toddlers who are potentially eligible and who are homeless, in foster care, and wards of the State, as well as those who have been the subject of a substantiated case of abuse and/or neglect including those who are directly affected by illegal substance abuse.

MDE, with the assistance of the MICC as defined in § 303.8, ensures that the child find system under Part C of IDEA:

A. Is coordinated with all other major efforts to locate and identify children by other State agencies responsible for administering the various education, health, and social service programs relevant to Part C of IDEA, including Indian tribes that receive payments under Part C of IDEA, and other Indian tribes, as appropriate; and
B. Is coordinated with the efforts of the:
    1. Program authorized under Part B of IDEA;
    2. 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));
    3. 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));
    4. Programs under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.);
    5. Head Start Act (including Early Head Start programs under section 645A of the Head Start Act) (42 U.S.C. 9801 et seq.);
    6. Supplemental Security Income program under Title XVI of the Social Security Act (42 U.S.C. 1381);
    7. Child protection and child welfare programs, including programs administered by, and services provided through, the foster care agency and the State agency responsible for administering the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5106(a));
    8. Child care programs in the State;
    9. The programs that provide services under the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.);
    10. Early Hearing Detection and Intervention (EHDI) systems (42 U.S.C. 280g-1) administered by the Centers for Disease Control (CDC); and
    11. Children's Health Insurance Program (CHIP) authorized under Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

MDE, with the advice and assistance of the MICC, takes steps to ensure that:

A. There will not be unnecessary duplication of effort by the programs listed in (B) of the preceding paragraph; and

B. The State makes use of the resources available through the *Early On* system and *Early On* service areas to implement the child find system in an effective manner.

II. Referral Procedures

Referral procedures (§ 303.303)
Referral procedures and clarification of aligned regulatory responsibilities have been developed.

Referral is the process by which the local lead agency is notified of a suspected developmental delay or established condition for an infant or toddler, birth to age three. Referrals can be made by contacting the child find or *Early On* coordinator at a local lead agency, by contacting 1-800-EARLYON, or via web (www.1800earlyon.org). Procedures are in place to immediately route referrals to the local lead agency in which the family resides. The referral from a primary referral source to *Early On* should be made as soon as possible after identification of a suspected developmental delay or established condition, but in no case more than seven days from date of identification. The 45-day timeline from referral to evaluation/assessment and initial IFSP meeting begins with this notification.

Referral of specific at-risk infants and toddlers
The regulations implementing Part C of IDEA require the Part C referral of children who are the subject of a substantiated case of abuse and/or neglect and who are directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure (§ 303.303(b)). MDHHS will refer any victim involved in a substantiated case, categories I and II, of abuse and/or neglect to *Early On*.

Primary referral sources
Primary referral sources include:
A. Hospitals, including prenatal and postnatal care facilities;
B. Physicians;
C. Parents, including parents of infants and toddlers;
D. Child care programs and early learning programs;
E. LEAs and schools;
F. Public health facilities;
G. Other public health or social service agencies;
H. Other clinics and health care providers;
I. Public agencies and staff in the child welfare system, including child protective service and foster care;
J. Homeless family shelters; and
K. Domestic violence shelters and agencies.

Primary referral sources are informed about referral procedures through *Early On* child find.

III. Post-Referral Procedures

Once a referral is received by a local lead agency, a service coordinator is assigned as soon as possible and the family is provided with information about *Early On.* The following actions will occur:

A. Acknowledge receipt of the referral to primary referral sources (as defined in IDEA). This will ensure referral sources that their referral has been received and assist in developing a collaborative relationship between *Early On* and its collaborative partners.
B. Notify the family in writing of the referral, including initial notice of procedural safeguards and confidentiality protections, per § 303.404, within ten calendar days of the receipt of the referral by *Early On*. Parents will also receive information about *Early On*.
C. Provide parents with prior written notice of the recommendation for an evaluation.
D. Request and obtain the parent's informed consent to begin the eligibility determination process.
E. Schedule an appointment with the family to begin the eligibility determination process. Parents may sign an Authorization to Share Confidential Information form, indicating which information, if any, can be shared, by whom, and with whom (per procedural safeguards).
F. If authorization has been given, *Early On* will request existing medical records and other existing information that will assist in eligibility determination so that evaluations and assessments already completed (that meet *Early On*'s standards) will not be duplicated.
G. *Early On* will assure the family that *Early On* services are provided at no cost to the family.

Post-referral timeline (45 days) (§ 303.310)
Within 45 calendar days after the receipt of the referral, screening (if applicable), assessment and evaluation activities are completed. If the child is eligible, an IFSP meeting is also held within the 45-day timeline.

The 45-day timeline does not apply when a child or parent is unavailable due to an exceptional family circumstance or when a parent has not provided consent after documented repeated attempts to obtain that consent. *Early On* service providers are instructed to clearly document such circumstances in the child's early intervention records. Completion of the screening, initial evaluation, initial assessment and/or initial IFSP meeting must take place as soon as possible after the documented circumstances no longer exist or parental consent is obtained. An interim IFSP should be developed and implemented, to the extent appropriate and consistent with § 303.345, as addressed later in Section D.

Screening procedures (optional) (§ 303.320)
Local lead agencies may adopt screening procedures for those children who have been referred to Part C to determine whether they are suspected of having a developmental delay. If the local lead agency proposes to conduct post-referral screening of a child, it must do the following:

A. Provide the parent prior written notice of its intent to screen the child.
B. Include in the prior written notice that consent is required to conduct such screening; that the parent has a right to request an evaluation at any time during the screening process; and that the parent has a right to receive notice of the screening results.
C. Obtain parental consent before conducting the screening procedures.

If the parent consents to the screening and the screening or other information indicates that the child is suspected of meeting the *Early On* eligibility definition, after prior written notice is provided and once the parental consent is obtained, an evaluation of the child must be conducted. If the child is not suspected of meeting the *Early On* eligibility definition, the local lead agency must ensure that prior written notice of that determination is provided to the parent and describes the parent's right to request an evaluation. If the parent requests and consents to an evaluation at any time during the screening process, evaluation of the child must be conducted. The screening process does not extend the 45-day timeline from referral to initial IFSP meeting.

Eligibility determination
Eligibility determination is the process of reviewing documentation and/or child evaluation information about the child's health and developmental status to decide if the child is eligible or continues to be eligible for *Early On*. Eligibility may be determined in the following manners:

1. Established condition
   An infant or toddler is eligible for *Early On* if medical and/or other records indicate that the child meets the criteria for an infant or toddler with a disability under § 303.21 as reflected in Michigan's list of established conditions, which may be found on MDE's *Early On* website (www.michigan.gov/earlyon). No evaluation is required.
2. Developmental delay
   A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) 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. For infants and toddlers suspected of having a developmental delay, *Early On* will conduct a comprehensive multidisciplinary evaluation of the child. The evaluation will be conducted by one or more persons representing two or more separate disciplines or professions using informed clinical opinion.
3. Informed clinical opinion
   Informed clinical opinion may be used as an independent basis to establish eligibility, even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

When a child is determined eligible, *Early On* will inform the family, including prior written notice, and will discuss with the family whether any additional child assessment information on one or more of the five developmental domains is needed to develop the IFSP, for which consent has not yet been obtained. No additional child assessment requiring parental consent will be pursued until such parental consent is obtained.

Determination that a child is not eligible (§ 303.322)
If, based on the evaluation, the local lead agency determines that a child is not eligible for *Early On*, the local lead agency must provide the parent with prior written notice and include in the notice information about the parent's right to dispute the eligibility determination through the dispute resolution process. Although not required, the family may be provided information about community resources.

Evaluation of the child (§ 303.321)
In conducting a multidisciplinary evaluation of the child, no single procedure may be used as a sole criterion for determining a child's eligibility under this part. Procedures must include:

A. Administering an evaluation instrument;
B. Taking the child's history (including interviewing the parent);
C. Identifying the child's level of functioning in each of the developmental areas on § 303.21(a)(1);
D. Gathering information from other sources such as family members, other caregivers, medical providers, social workers, and educators, if necessary, to understand the scope of the child's unique strengths and needs; and
E. Reviewing medical, educational, or other records.

The purpose of a developmental history is to obtain information directly from the parents regarding the prenatal, perinatal, and family life experiences which may have influenced the child's current developmental functioning.

The purpose of the health status report is to obtain information regarding the child's past and current physical development and health status. The health status report is based on a comprehensive physical health examination conducted by a nurse, nurse practitioner, or physician approved for such appraisals. If a comprehensive physical examination has been conducted within the past three months for a child under 18 months, or within the past six months for a child over 18 months, by the appropriately designated professional, a current health status appraisal need not be repeated; review of past medical/health records will suffice.

The evaluation of health status must include vision and hearing reports that may be derived from the following sources:

A. Recent vision and hearing report from doctor (within three months if the child is under 18 months, within six months if older). If the child is under three months of age, the newborn hearing screening result may be used.
B. A new vision and hearing report from a doctor or health department.

C. *Early On* provider conducts an objective vision and hearing screening.
D. *Early On* provider conducts a subjective vision and hearing screening.

When conducting evaluations, *Early On* will adjust for prematurity for every child born earlier than 37 weeks gestation, and continue to adjust in ongoing assessment activities until the child reaches the chronological age of 24 months.[2] After the child is two years old (chronologically), adjustments for prematurity will be discontinued.

Use of native language during evaluation and assessment (§ 303.321)
Unless clearly not feasible to do so, all evaluations and assessments of a child must be conducted in the native language of the child, and all family assessments must be conducted in the native language of the family members being assessed.

Assessment of the child and family (§ 303.321)
The child/family assessment is the process of gathering any additional information that is needed to develop the IFSP.

Child assessment
During the needs assessment process, *Early On* and the family will carry out any additional child assessment activities that are needed for IFSP development. Much of the information needed to develop the initial IFSP may have already been gathered in order to establish eligibility. If not, child assessment activities will be carried out at this point to inform the development of the IFSP so that it is based on the needs of the child. The information used to define the child's unique strengths and needs and the early intervention services appropriate to meet those needs must include all of the following:

A. Review of the child's evaluation results.
B. Personal observations of the child.
C. Identification of the child's needs in each of the following developmental areas:
    1. Cognitive
    2. Communication
    3. Social/emotional
    4. Adaptive (self-help)
    5. Physical (vision, hearing, gross and fine motor)
D. An observational assessment of the parent(s)/primary caregiver(s) and child together.

The purpose of the observational assessment is to understand the development of the child within the context of his or her caregiving

[2] The adjustment for prematurity consists of subtracting the number of weeks of prematurity (i.e., the difference between 40 weeks of full-term gestation and the number of actual weeks of gestation) from the child's current chronological age. The result is the corrected chronological age, adjusting for prematurity.

environment and across multiple developmental domains of functioning: cognitive, physical, communication, social and emotional, and adaptive.

Family assessment
The family assessment is conducted by personnel trained to use appropriate methods and procedures. The family-directed assessment must:

A. Be voluntary on the part of each family member participating in the assessment.
B. Be obtained through use of an assessment tool and interview.
C. Include a family-directed identification of priorities, resources and concerns related to enhancing the development of the child. This information is used to help determine the kinds of services that will be provided to help achieve family outcomes.

IV. Individualized Family Service Plan

General (§ 303.340)
Policies and procedures related to the development and implementation of IFSPs in Michigan meet all requirements of the Federal rules and regulations. The IFSP is a written plan for providing early intervention services to eligible children and families that is developed jointly by the family and appropriate qualified personnel. It is based on an assessment of the child's unique strengths and needs, including a review of the comprehensive multidisciplinary child evaluation (if one was conducted), and on a family-directed assessment of the family's resources, priorities, and concerns. Parental consent is obtained before any services are provided. An IFSP is developed and implemented in a family-centered manner for each eligible child. If a dispute between agencies exists regarding the responsibility for IFSPs, the lead agency resolves the dispute or assigns responsibility for resolving it to another agency.

Procedures for IFSP development, review, and evaluation (§ 303.342)
Procedures are in place that meet all Federal requirements regarding the development, review and evaluation of individualized family service plans. The meeting to develop the initial IFSP is held within 45 calendar days after the local lead agency receives a referral.

IFSPs are reviewed every six months or more frequently if the family requests or conditions warrant. The review process includes a determination of the degree to which progress is being made toward achieving the outcomes specified in the IFSP and whether modification or revision of the outcomes or services is necessary. Reviews may be conducted at a meeting, or by other means acceptable to the parents and other participants.

IFSP meetings are held at least annually to evaluate and revise, as appropriate, the IFSP for a child and the child's family. The results of any current (within six months) evaluations and other information available from the assessments of the child and information regarding the family's concerns, priorities, and resources are used to determine what services will be

provided. The family is viewed as an equal team member in all phases of IFSP development and information provided by the family is central to the identification of the child's strengths and needs, and the services to be provided.

IFSP meetings are conducted in settings and at times that are convenient to families. Arrangements, confirmed in writing, are made sufficiently in advance to ensure attendance of participants. Meetings may be conducted in a variety of settings, including the home. Telephone conference calls may be utilized, where appropriate, to ensure the participation of necessary team members. IFSP meetings are conducted 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.

The contents of the IFSP are fully explained to the parents, prior written notice is given, and informed written consent from the parents is obtained prior to the provision of early intervention services. If the parents do not consent to a particular early intervention service or withdraw consent after first providing it, that service is not provided. The early intervention services to which parental consent is obtained are provided in a timely manner. Michigan's definition of Timely Service is "the provision of each service as soon as possible, but no later than 30 calendar days from when a parent/guardian provides written consent to the provision of that early intervention service."

IFSP team meeting and periodic review (§ 303.343)
Procedures are in place to ensure that initial and annual IFSP meetings must include the following participants: parent or parents of the child; other family members, as requested by the parent, if feasible to do so; an advocate or person outside of the family, at the parent's request; the service coordinator who has been working with the family since the initial referral of the child for evaluation or who has been designated by the local lead agency to be responsible for implementation of the IFSP; a person or persons directly involved in conducting the evaluations and assessments; and, as appropriate, persons who will be providing services to the child or family.

Arrangements are made for persons involved in the evaluation and assessment, who are not in attendance, to contribute information through any of the following means: telephone conference calls, representation by an authorized individual, or through making pertinent records available at the meeting.

Periodic reviews must provide for the participation of the parent or parents of the child; other family members, if feasible to do so; an advocate or person outside of the family, as requested by the parent; the service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the local lead agency to be responsible for implementation of the IFSP. If conditions warrant, provisions must be made for participation of persons directly involved in conducting

evaluations and assessments, and persons who will be providing early intervention services.

Throughout the IFSP process parents are regarded and supported as equal participants. The service coordinator works closely with parents to ensure that the needed participants attend. The service coordinator also assists the family in understanding the early intervention system, and facilitates communication among all IFSP team members throughout the delivery of services.

Content of an IFSP (§ 303.344)

The IFSP includes a statement about the child's present levels of: physical development (including vision, hearing, and health status); cognitive development; communication development; social or emotional development; and adaptive development. The name of the evaluator, the agency with which the evaluator is affiliated, and the date of the evaluation are also included. Present levels of development are based upon professionally accepted objective criteria. With the family's concurrence, a statement of family resources, priorities, and concerns related to enhancing the development of the child is written in the IFSP. Measurable outcomes for the child that are identified with the family (including pre-literacy and language skills, as developmentally appropriate for the child), as well as criteria, procedures, and timelines used to determine progress toward achievement of those outcomes, are also included, as are modifications or revisions of outcomes, and services needed to achieve them. In addition, the IFSP includes:

A. A statement of specific early intervention services, based on peer-reviewed research (to the extent practicable) necessary to meet the unique needs of the infant or toddler and the family, including the location of early intervention services, length and duration of the service, frequency, intensity, method of delivering services, and payment arrangements. *Location* means the actual place or places where a service will be provided. The term *frequency and intensity* refers to the number of days or sessions that the service is provided and whether the service is provided on an individual or group basis. *Method* means how the service is provided. *Length* means the length of time the service is provided during each session (such as an hour or other specified time period), and *duration* means a projection of when a service will no longer be provided (such as when the child is expected to achieve the results or outcomes in his or her IFSP).
B. A statement of the natural environments in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which services will not be provided in a natural environment. Each IFSP team (including the parent and other team members) will carefully consider the most appropriate setting(s) most likely to achieve the outcomes desired, and therefore may determine that settings other than the natural environment are most appropriate, but only when the early intervention services cannot be achieved satisfactorily in a natural environment.

C. As appropriate, other services which the child is currently receiving, or may need, but which are not required under Part C of IDEA are included. These may include the identification of informal supports which are recognized as an integral part of the Part C process, as well as medical and other services (e.g., immunizations and "well-baby" care) that are necessary but not required. The use of informal supports and community-based resources for early intervention services for children and families is encouraged and supported. If those services are currently not being provided, the IFSP includes a description of the steps the service coordinator or family may take to assist the child and family in securing those services.
D. The projected date for initiation of each service (as soon as possible after the IFSP meeting in which the parent consents to the service) and the anticipated duration of each service are included.
E. The identification of the service coordinator is included on the form. The service coordinator is usually selected from the profession most immediately relevant to the family's or child's needs, and may come from a variety of sources, including individuals with appropriate training or parents of children with previous involvement in early intervention, as long as the individual is qualified to carry out all applicable responsibilities under Part C. The term "profession" in this section includes "service coordination." If an interim service coordinator is assigned, that individual remains in place until the date of the initial IFSP meeting. The service coordinator is responsible for coordinating and facilitating the implementation of the services identified in the child's IFSP, including transition services, as well as coordinating with other agencies and persons.

The IFSP must include the steps and services to be taken to support the smooth transition from *Early On* for all toddlers with disabilities transitioning to preschool, other programs, and/or services. Requirements of the written transition plan and information regarding transition followed in Michigan are found in Section C, Part III of this document.

Interim IFSP - Provision of services before evaluation and assessment are completed (§ 303.345)

Early On services for an eligible child and the child's family may commence prior to the completion of the formal evaluation and assessment if parental consent is given in accordance with the procedural safeguards for *Early On*. In such instances, an interim IFSP is developed that includes the name of the service coordinator who assumes responsibility for the implementation of the interim IFSP and for coordination with other agencies and persons as needed. The interim IFSP also includes a description of services that are immediately needed by the child and the child's family, and addresses their most pressing concerns and priorities. Evaluation (if needed), child assessment, and family assessment are then completed, and an initial IFSP meeting is completed within the required 45-day time period.

Responsibility and accountability (§ 303.346)
Early On service areas that have a direct role in the provision of *Early On* services recognize that they are responsible for making a good faith effort to assist each eligible child in achieving the outcomes of the IFSP. It is also recognized that Part C of IDEA does not hold any *Early On* service area accountable if an eligible child does not achieve the growth projected in the child's IFSP.

Section E:
Items Aligned with Subpart E of Federal Regulations 34 CFR 303.400 through 303.449

Procedural Safeguards

I. General

General responsibility of MDE for procedural safeguards (§ 303.400)
The state lead agency is responsible for establishing procedural safeguards that meet all requirements under Part C. MDE as state lead agency, through collaboration with MDHHS, has adopted procedural safeguards in accordance with Part C (34 CFR 303.400 through 303.449) and Part B (34 CFR 300.560 through 300.576) and R 340.1901-1951. The partner agencies ensure that these procedural safeguards are implemented in the provision of *Early On* services to eligible children and their families. An initial copy of the child's early intervention record is provided at no cost to the parents.

II. Confidentiality and Early Intervention Records

Child records/confidentiality of information (§ 303.401)
Michigan has adopted policies and procedures which ensure the protection of any personally identifiable information collected, used, or maintained by *Early On*, including the right of parents to written notice of and consent to the exchange of this information among partner agencies consistent with Federal and State law. The policy is confirmed annually in the interagency contract agreement; procedures include the use of forms to document parental consent and authorization to share information approved by each of the agencies participating in the *Early On* system and is consistent with State and Federal law. Under this policy, the parents of a child referred, or of an eligible child, are afforded the opportunity to inspect and review records relating to evaluations and assessments, screening (should the local lead agency determine its use), eligibility determination, development and implementation of IFSPs, provision of early intervention services, individual complaints dealing with the child, and any other area involving records about the child and the child's family.

The confidentiality procedures described in this section apply:

A. To the personally identifiable information of a child and the child's family that is contained in early intervention records collected, used, or maintained under Part C of IDEA by the lead agency or local lead agency; and
B. 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.

The information described below is needed to enable local lead agencies, as well as LEAs and SEAs under Part B of IDEA, to identify all children potentially eligible for services under Part B of IDEA.

Subject to further provisions below, the local lead agency discloses to the SEA and the LEA where the child resides, in accordance with §§ 303.209(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under IDEA:

A. A child's name.
B. A child's date of birth.
C. Parent contact information, including parents' names, addresses, and telephone numbers.

MDE, through its policies and procedures, requires local lead agencies, prior to making the limited disclosure described (name, date of birth, parent contact information), to inform parents of a toddler with a disability of the intended disclosure.

Confidentiality (§ 303.402)
MDE acknowledges that the Secretary of Education has taken appropriate action, in accordance with General Education Provisions Act (GEPA) section 444 and the Family Educational Rights and Privacy Act (FERPA), to ensure the confidentiality of personally identifiable information and records that are collected, maintained, or used by the Federal program office, MDE, or any of the local lead agencies through the issuance of the regulations governing Part C and the enforcement of IDEA.

Definitions (§ 303.403)
Destruction means physical destruction or removal of personal identification from information, so that information is no longer personally identifiable.

A **record** means the type of records covered under FERPA (20 U.S.C. 1232g). An *Early On* record is any information, recorded in any way, maintained by an agency, institution, or *Early On* service provider (whether public or private) or by any party acting for an agency, institution, or *Early On* service provider that is needed to initiate referral or provide services to the eligible child and his/her family under Part C. This would include referral information, evaluation and assessment information, eligibility determination, development and implementation of IFSPs, summaries of follow-up meetings, requests for due process hearings and complaints dealing with the child.

Records include (but are not limited to) files, evaluations, reports, studies, letters, telegrams, minutes of meetings, memoranda, summaries, inter-office or intra-office communications, memoranda reflecting oral conversations, handwritten or other notes, charts, graphs, data sheets, films, videotapes, slides, photographs, sound recordings, disks, tapes, and information stored on microfilm or microfiche or in computer-readable form. This definition does not override the exceptions set forth in FERPA 34 CFR 99.3 "education records" or Child Protective Services (CPS). Release of information regarding specific CPS records is governed by the Child Protection Law. The Child Protection Law is the sole authority for the release of CPS record information. Neither the Freedom of Information Act (FOIA) nor Release of Information requests provide authority for release of CPS record information. Individuals and organizations, including multidisciplinary teams, who provide diagnosis, assessment, consultation and treatment authorized by the agency or the court have access to CPS information during the course of a CPS investigation or in conjunction with the provision of services.

Participating agency means any agency, institution, or *Early On* service provider (whether public or private) which collects, maintains, or uses personally identifiable information or from which such information is obtained under the Part C Infant and Toddler Early Intervention Services System to implement requirements in statute and regulations for a particular child, but does not include primary referral sources, or public agencies (such as the State Medicaid or MiChild program) or private entities (such as private insurance companies) that act solely as funding sources for *Early On* services.

Personally identifiable information is defined in § 303.29, and noted in Appendix A, and essentially means information that includes, but is not limited to:

A. The child's name;
B. The name of the child's parent or other family member;
C. The address of the child or child's family;
D. A personal identifier, such as the child's and/or parent's social security number;
E. A list of personal characteristics that would make the child's/family's identity reasonably certain; and
F. Other information that would make the child's/family's identity reasonably certain.

Notice to parents (§ 303.404)

When a child is referred, the local lead agency provides notice to fully inform parents about the confidentiality of information collected in identifying, locating (including child find activities), and evaluating *Early On* eligible infants and toddlers, including:

A. A description of the children for 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;
B. A summary of the policies and procedures which participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
C. A description of all of the rights of parents and children regarding this information, including the rights under the confidentiality provisions detailed in the regulations for Part C.
D. A description of the extent to which the notice is given in the native languages of the various population groups in the state.

Within ten calendar days of referral, a family will be provided written notice of the referral, including a description of the rights of the Part C confidentiality provisions. The notice includes an explanation of any proposed action or inaction relative to identification, and any impending screening or initial evaluation/assessment, and a description of the procedural safeguards afforded to them under Part C.

Access rights (§ 303.405)
Each participating agency must permit parents to inspect and review any *Early On* records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a parent's request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §§ 303.430(d) and 303.435 through 303.439, and in no case more than ten days after the request has been made.

The right to inspect and review *Early On* records under this section includes:

A. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the *Early On* records. Parents who are deaf, who have a native language other than English, or who are not proficient in oral or written English language shall have the right to an appropriate interpreter;
B. The right to request that the participating agency provide copies of the 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 to have a representative of the parent inspect and review the records.

A participating agency may presume that the parent has authority to inspect and review records relating to his or her child unless the participating agency has been given a court order to the contrary; e.g., pursuant to applicable State laws governing custody, foster care, guardianship, separation, and divorce.

Record of access (§ 303.406)
Each participating agency shall keep a record of parties obtaining access to records collected, maintained, or used by *Early On* (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Records on more than one child (§ 303.407)
If any *Early On* record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

List of types and locations of information (§ 303.408)
Each participating agency shall provide parents, upon request, a list of the types and locations of *Early On* records collected, maintained, or used by the agency. The local lead agency shall establish and maintain a central *Early On* file for each child referred for and/or receiving services from *Early On*.

Fees for records (§ 303.409)
No fee may be collected for the first copy of the child's IFSP or evaluation. 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. Except for the records identified above, a participating agency may charge a fee for copies of records which are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. A participating agency may not charge a fee to search for or to retrieve *Early On* information.

Amendment of records at a parent's request (§ 303.410)
A parent who believes that information in the early intervention records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information. The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing.

Opportunity for hearing (§ 303.411)
The participating agency shall, on request, provide an opportunity for a hearing to challenge information in its *Early On* records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child/family. 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 the Michigan procedures in § 303.413 (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).

Result of hearing (§ 303.412)
If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child/family, the participating agency shall amend the information accordingly and so inform the parent in writing.

If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child/family, it shall inform the parent of the right to place a statement in the *Early On* record commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

Any amendment or explanation of objection placed in the *Early On* record must:

A. Be maintained by the participating agency as part of the *Early On* record as long as the record or contested portion is maintained by the participating agency; and
B. If the *Early On* record or the contested portion has previously been disclosed by the participating agency to any third party, the amended record or explanation of objection must also be disclosed to the third party.

Hearing procedures (§ 303.413)

A hearing held under § 303.411 must be conducted according to the procedures under FERPA (34 CFR 99.22), except that the time from receipt of request for hearing to a written decision shall not exceed 30 days, in alignment with the regulations implemented for Part B of IDEA, 34 CFR 300.515.

Consent prior to disclosure or use (§ 303.414)

Michigan uses the term "Authorization to Share" when seeking parental consent for use of personally identifiable information.

A written and dated request must be made and written parental consent must be obtained before personally identifiable information is:

A. Transferred from another record maintained by a participating agency to the *Early On* record maintained by that agency;
B. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under Part C, subject to the exceptions noted below; and/or
C. Used for any purpose other than meeting a requirement under Part C.

A participating agency is subject to FERPA (34 CFR 99) and may not release information from its *Early On* record to other participating agencies without parental consent unless authorized to do so under one of the following exceptions:

A. Those noted as part of transition policies and procedures developed under §§ 303.209(b)(1)(i) and (b)(1)(ii), and noted in Section C of this plan; or
B. One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. When considering the following, it is important to apply the applicability of these exceptions for infants and toddlers with disabilities. FERPA allows schools to disclose student's education records, without consent, to the following parties or under the following conditions (34 CFR 99.31):
    - School officials with legitimate educational interest;
    - Other schools to which a student is transferring;
    - Specified officials for audit or evaluation purposes;
    - Appropriate parties in connection with financial aid to a student;
    - Organizations conducting certain studies for or on behalf of the school;
    - Accrediting organizations;

- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Participating agencies must also comply with the pertinent conditions in:

- 34 CFR 99.32 (details regarding the type of records needed to be kept for requests for disclosure of information in student records),
- § 99.33 (clarification about redisclosure and the responsibilities to seek assurance that any disclosed information is handled appropriately),
- § 99.34 (guidelines for disclosure to other educational institutions),
- § 99.35 (conditions that apply when the information is disclosed for State or Federal program purposes),
- § 99.36 (expectations of disclosure related to health and safety emergencies),
- § 99.38 (expectations with regard to records connected to the juvenile justice system), and
- § 99.39 (post-secondary records related to specific issues).

Due to the nature of the FERPA regulations primarily being focused on schools and students, Part C regulations provide the following information which, through substitutions, allows for greater understanding of the applicability of FERPA to infants and toddlers with disabilities.

- 34 CFR 99.30 means § 303.414(a);
- "Education records" means early intervention records under § 303.403(b);
- "Educational" means early intervention under Part C of IDEA;
- "Educational agency or institution" means the participating agency under § 303.404(c);
- "School officials and officials of another school or school system" means qualified personnel or service coordinators under Part C of IDEA;
- "State and local educational authorities" means the lead agency under § 303.22; and
- "Student" means child under Part C of IDEA.

Michigan has 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.

Safeguards (§ 303.415)

Each participating agency shall protect the confidentiality of personally identifiable information at collection, use, storage, disclosure, and destruction stages. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under §§ 303.401 through 303.417 and FERPA (34 CFR Part 99). Each participating agency shall 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.

Destruction of information (§ 303.416)
The local lead agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide *Early On* services to the child and/or family, or related Federal provisions in GEPA, 20 U.S.C. 1232(f) and EDGAR, 34 CFR 76 and 80. The information must be destroyed at the request of the parents. However, these elements listed in 34 CFR 303.416 may be maintained without time limitation: child's name, date of birth, parent contact information(including address and phone number), names of service coordinator(s) and early intervention services provider(s), and exit data (including year and age upon exit, and any programs entered into upon exiting).

Enforcement (§ 303.417)
To ensure compliance with Part C confidentiality requirements, the participating agencies will monitor all *Early On* service providers. As the term "*Early On* service provider" is used in this paragraph, it is intended to encompass all entities. If an *Early On* service provider fails to comply with Part C confidentiality requirements, the *Early On* service provider shall submit a remediation plan with periodic evaluations of progress in remediation. Technical assistance may be provided to assist the *Early On* service provider in coming into compliance. If the *Early On* service provider does not comply with remediation plans, the following sanctions may be employed:

A. The *Early On* service provider may be determined ineligible for future Part C funding;
B. Contract termination provisions may be exercised to terminate, in whole or in part, contracts with the *Early On* service provider; and
C. In appropriate circumstances, contracts may be suspended, in whole or in part, and future Part C payments may be withheld.

III. Parental Consent and Notice

Parental consent and ability to decline services (§ 303.420)
Written and dated parental consent in accordance with § 303.420 must be obtained:

A. Before conducting the optional post-referral screening (§ 303.320) used to determine whether a child is suspected of having a disability, as well as before conducting the initial evaluation and assessment of a child and any subsequent reevaluation or ongoing assessment;
B. Before implementing the provision of *Early On* services for the first time (i.e., at the time that the initial IFSP is developed) and for any subsequent IFSP; and
C. Before release of personally identifiable information pursuant to § 303.414.

The regulations also require parental written consent prior to accessing certain funds in those states where public benefits or insurance (i.e., Medicaid, MiChild) or private insurance is part of the system of payments under § 303.520.

If consent is not given for items (A) and (B) in the above list, the local lead agency shall make reasonable efforts to ensure that the parent:

A. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
B. Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.

The local lead agency 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 above.

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 at any time, in accordance with Michigan law; and
B. May decline a service after first accepting it, without jeopardizing other early intervention services under Part C of IDEA.

Prior written notice and procedural safeguards notice (§ 303.421)

A. *General*
   Prior written notice must be given to the parents of an infant or toddler a reasonable time before a local lead agency proposes or refuses to initiate or change the identification, evaluation, or placement of the child. Prior written notice must be given to the parents of a child eligible for *Early On* a reasonable time before a local lead agency proposes or refuses to initiate or change the provision of appropriate early intervention services to the child and the child's family.
B. *Content of Notice*
   The notice must be in sufficient detail to inform parents about—
   1. The action that is being proposed or refused;
   2. The reasons for taking the action; and
   3. All procedural safeguards that are available under this subpart, including a description of mediation in § 303.431, how to file a State complaint in §§ 303.432 through 303.434 and a due process complaint in the provisions adopted under § 303.430(d), and any timelines under those procedures.
C. *Native language*
   The notice must be—
   1. Written in 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.

3. If the native language or other mode of communication of the parent is not a written language, the local lead agency must take steps to ensure that—
    a. The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
    b. The parent understands the notice; and
    c. There is written evidence that the requirements of this paragraph have been met.

Thus, if a parent is deaf or blind or has no written language, the mode of communication must be that normally used by the parent (e.g., sign language, Braille, or oral communication) and the parent shall have the right to an appropriate interpreter and explanation of the notice by a professional staff person.

Surrogate parents (§ 303.422)

A. The designated administrator of the local lead agency shall assign a surrogate to represent the rights of eligible children within 30 calendar days of its determination that one of the following circumstances exists:
    1. When, after documented reasonable efforts including collaborative inquiries through other participating agencies, the local lead agency is unable to identify or locate the parent or a person acting as parent (as defined in § 303.27) of a child; or
    2. When the child is a ward of the State and does not have a foster parent who meets the definition of a parent. In such, a surrogate parent may alternatively be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in Section C.
B. The surrogate shall have the same rights as a parent under these regulations, including the right to consent or withhold consent and to represent the child in all matters pertaining to identification, evaluation, assessment, IFSP development, provision of early intervention services, and any other rights established under IDEA Part C.
C. The local lead agency shall maintain a list of approved surrogates and procedures for appointing a surrogate from that list, to be selected in any way permitted by State law.
    1. The local lead agency shall endeavor to appoint a surrogate who will act as an effective advocate, with a preference given to a person who knows and understands the child and the family's cultural, religious, and linguistic background;
    2. The surrogate shall be knowledgeable and trained in the developmental needs, service options, and legal rights of children eligible for *Early On* services;
    3. A surrogate shall have no personal or professional interest which conflicts with the child's interests, and shall not be an employee of the *Early On* system or *Early On* service area that provides early intervention services, education, care or other services to the child or any family member of the child. A person who otherwise qualifies to

be a surrogate is not an employee solely because of being paid by a participating agency to serve as a surrogate parent.

D. Any person participating in good faith as a surrogate parent on behalf of the child shall have immunity from civil liability that otherwise might result by reason of such participation, except in cases of willful or wanton misconduct.
E. A surrogate parent shall be appointed and shall continue to serve until he or she resigns, the appointment is terminated by the local lead agency, or the child is no longer eligible for early intervention services.

IV. Dispute Resolution Options

State dispute resolution options (§ 303.430)
Michigan has written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures.

A. Mediation
Those who have disputes involving any matter under Part C have the opportunity for mediation that meets regulatory requirements under § 303.431.
B. State Complaint
Should any party feel that the lead agency, local lead agency, or partner agency has violated Part C regulations or statute, they may file a Part C State complaint per the complaint procedures adopted by Michigan in compliance with Part C regulatory requirements (§§ 303.432, 303.433, 303.434).
C. Due Process Hearing
States have the option of adopting either Part C or Part B due process hearing procedures as a means of fulfilling the Part C requirement to provide a due process hearing dispute resolution mechanism. Michigan has adopted the Part B due process hearing procedures, which are overseen by the Office of Special Education (OSE) within MDE. Written procedures follow the requirements set forth in section 615 of IDEA, as well as Part C regulations §§ 303.440 through 303.449. Under these written procedures Michigan has adopted a 45 calendar day timeline from expiration of the 30 calendar day resolution period (or adjusted 30 calendar day time period) for the holding of the due process hearing and the issuance of a final decision on the hearing issue.

During the pendency of any proceeding involving a due process complaint, unless the lead agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate *Early On* services in the setting identified in the IFSP that is consented to by the parents. Further, if the due process complaint involves an application for initial services under Part C, the child must receive those services that are not in dispute.

V. Mediation

Mediation (§ 303.431)

MDE has established and implemented procedures to allow those who dispute any matter under Part C, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.

The mediation process is voluntary on the part of the parties and 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 the Act. Special Education Mediation Services (SEMS)*, funded with a mandated activities project contract issued by OSE, provides mediation services at no cost to parents and education across the state through a network of local dispute resolution centers. The program provides training for mediators with the assistance of trainers who specialize in early intervention and special education law and mediation. SEMS maintains a statewide roster of mediators, and impartially assigns mediators to cases. Costs of mediation are borne by the State. 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.

Should a dispute be resolved through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution. The documented agreement also 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. The agreement is signed by both the parent and a representative of the lead agency who has the authority to bind such agency.

It is acknowledged that a written, signed mediation agreement is enforceable in any State court of competent jurisdiction or in a district court of the United States.

It is further recognized that 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 Michigan court.

An individual who serves as a mediator may not be an employee of MDE or an employee of the local lead agency that is involved in the provision of early intervention services or other services to the child. The person who serves as a mediator must not have a personal or professional interest that conflicts with the person's objectivity. In addition, a person who otherwise qualifies as a mediator is not considered to be an employee of a local lead agency solely because he or she is paid by the agency to serve as a mediator.

**Document updated with name change effective 2-7-19.*

Michigan has also established procedures to offer to parents and local lead agencies 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 who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the state. This individual would explain the benefits of, and encourage the use of, the mediation process to the parents.

VI. State Complaint Procedures

Adoption of State complaint procedures (§ 303.432)
MDE has adopted written procedures for resolving any complaint, including a complaint filed by an organization or individual from another state. Complaints are filed with MDE. State procedures are disseminated to parents and other interested individuals, including parent training and information centers, Protection and Advocacy agencies, and other appropriate entities. The procedures require that if MDE has found a failure to provide appropriate services, MDE will take correction action to address the needs of the infant or toddler with a disability who is subject of the complaint, and that child's family. The result of such a finding will inform future provision of services for all infants and toddlers with disabilities and their families.

Minimum State complaint procedures (§ 303.433)
MDE acknowledges that complaint procedures must incorporate a maximum time limit of 60 days after a complaint is filed and that those procedures included within that time limit include:

A. Carrying out an independent on-site investigation, if MDE determines that an investigation is necessary;
B. Giving the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
C. Providing MDE or a local lead agency with an opportunity to respond to the complaint. This opportunity for response includes an opportunity to resolve the complaint informally and the opportunity for a parent who has filed a complaint and the other parties involved to voluntarily engage in mediation;
D. Reviewing all relevant information and making an independent determination as to whether MDE or a local lead agency is violating a requirement of Part C; and
E. Issuing a written decision to the complainant that addresses each allegation in the complaint and contains findings of fact and conclusions and the reasons for MDE's final decision.

MDE's procedures also permit an extension of the maximum 60-day time limit only if exceptional circumstances exist with respect to a particular complaint or the parent (or individual or organization) and MDE or a local lead agency involved agree to extend the time to engage in mediation. Procedures are included for effective implementation of MDE's final decision, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

If a written complaint is received that is also the subject of a due process hearing or contains multiple issues of which one or more are part of that hearing, MDE must set 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 must be resolved using the time limit and procedures established.

If an issue raised in a complaint filed has previously been decided in a due process hearing involving the same parties, the due process hearing decision is binding on that issue; and MDE informs the complainant to that effect. Should a complaint be filed that alleges MDE or a local lead agency has failed to implement a due process hearing decision, that complaint will be resolved by MDE.

Filing a State complaint (§ 303.434)
Procedures are in place, and a model complaint form exists, that provide the required elements of a complaint, including:

A. A statement that MDE or a local lead agency has violated a requirement of Part C;
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 local lead agency 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.

The procedure includes the requirement that the complaint must allege a violation occurred not more than one year prior to the date that the complaint is received. The procedure requires that the party filing the complaint must forward a copy of the complaint to the local lead agency serving the child at the same time the party files the complaint with MDE.

VII. Due Process Hearing Procedures

Michigan has adopted the due process hearing procedures under Part B, section 615 of the Act, and therefore §§ 303.435 through 303.438 do not apply.

Due process hearings (§§ 303.440 - 303.449)
Procedures are in place, and a model due process complaint form exists, that provide the required elements of the content, receipt, processing and resolution and disposition of due process complaints, including the timeline for resolution.

Parental rights are addressed; hearing decisions are integrated and finality of decisions and appeal allowance are addressed.

Section F:
Items Aligned with Subpart F of Federal Regulations 34 CFR 303.500 through 303.521

Use of Funds and Payor of Last Resort

I. General

Use of funds, payor of last resort, and system of payments (§ 303.500)
Michigan has a policy for a system of payments for early intervention services under Part C of IDEA, required to be paid under Federal, State, local or private programs 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. A policy exists to meet the payor of last resort provisions under §§ 303.510 through 303.521, regarding the identification and coordination of funding sources for, and the provision of, early intervention services under Part C.

Permissive use of funds by the lead agency (§ 303.501)
Consistent with §§ 303.120 through 303.122 and §§ 303.220 through 303.226, MDE may use funds under Part C for activities or expenses that are reasonable and necessary for implementing *Early On*, 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; and
B. To expand and improve services for infants and toddlers with disabilities and their families under Part C of IDEA that are otherwise available.

II. Payor of Last Resort and System of Payments

Payor of last resort (§ 303.510)

A. Except as provided in (B) below, 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 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, Michigan, local, or private source (including MMSEA), subject to §§ 303.520 and 303.521.
B. 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, for services and functions authorized under Part C of IDEA, including health services, 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.
C. It is acknowledged that nothing in Part C of IDEA may be construed to permit the State 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.

Methods to ensure the provision of, and financial responsibility for, Part C services (§ 303.511)

MDE has methods in place for state interagency coordination. Under these methods, the Governor or his/her designee ensures that the interagency agreement or other method for interagency coordination is in effect between each Michigan partner agency and MDE in order 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 IDEA and the Michigan application under section 637 of IDEA, including the provision of such services during the pendency of any dispute between State agencies.

The methods meet all requirements in this section and are set forth in one of the following:

A. State law or regulation;
B. Signed 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, or the Governor's designee, and approved by the Secretary through the review and approval of Michigan's application.

Procedures for resolving disputes

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 *Early On*. Those procedures include a mechanism for resolution of disputes within agencies and for the Governor, Governor's designee, or MDE to make a final determination for interagency disputes, which determination is binding upon the agencies involved.

These methods:

A. Permit 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
B. Include the process that MDE will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.

If, during MDE's resolution of the dispute, the Governor, Governor's designee, or MDE determines that the assignment of financial responsibility under this section was inappropriately made:

A. The Governor, Governor's designee, or MDE reassigns the financial responsibility to the appropriate agency; and

B. MDE makes arrangements for reimbursement of any expenditure incurred by the agency originally assigned financial responsibility.

Delivery of services in a timely manner
The methods adopted by Michigan under this section:

A. 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
B. Are consistent with the written funding policies adopted by Michigan under §§ 303.500 through 303.521 and include any provisions Michigan has adopted under § 303.520 regarding the use of insurance to pay for *Early On* services.

Each method includes any additional components necessary to ensure effective cooperation and coordination among, and MDE's general supervision (including monitoring) of, local lead agencies including the entire *Early On* service area.

III. Use of Insurance, Benefits, Systems of Payments, and Fees

Policies related to use of public benefits or insurance or private insurance to pay for Part C services (§ 303.520)
Michigan has adopted a system of payments policy that does not utilize private benefits or insurance to pay for Part C services. The policy does address how Medicaid resources might be accessed for certain services. In addition, Michigan acknowledges that the regulations contained in the shaded box are integrated into the processes used for accessing Medicaid, and would also be addressed should the system of payments policy be revised at any time to include private benefits or insurance, or public insurance.

A. Michigan recognizes that it may not use the public benefits or insurance of a child or parent to pay for Part C services unless MDE provides written notification consistent with § 303.520(a)(3) to the child's parents, and Michigan meets the no-cost protections identified in (B) below.
B. With regard to using the public benefits or insurance of a child or parent to pay for Part C services, Michigan:
   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 not 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 services if that use would:

a. Decrease available lifetime coverage or 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.

C. If the parent does not provide consent under (B) above, MDE still makes available those Part C services on the IFSP to which the parent has provided consent.

D. Prior to using a child's or parent's public benefits or insurance to pay for Part C services, MDE provides written notification to the child's parents. The notification includes:
1. A statement that parental consent is obtained under § 303.414 if that provision applies, before MDE or the local lead agency discloses, for billing purposes, a child's personally identifiable information to the Michigan public agency responsible for the administration of the Michigan public benefits or insurance program (e.g., Medicaid);
2. 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), MDE still makes available those Part C services on the IFSP for which the parent has provided consent;
3. 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 Michigan public agency responsible for the administration of the Michigan public benefits or insurance program (e.g., Medicaid) at any time; and
4. A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program, such as co-payments or deductibles or the required use of private insurance as the primary insurance.

E. If Michigan requires a parent to pay any costs that the parent would incur as a result of Michigan 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 Michigan's system of payments policies under § 303.521 and included in the notification provided to the parent under (D) above; otherwise, Michigan cannot charge those costs to the parent.

F. Should Michigan at any time include the use of private insurance in its system of payments, the regulatory responsibilities found in § 303.520(b) would be followed.

G. If a parent or family of an infant or toddler with a disability is determined unable to pay under Michigan's definition of inability to pay under § 303.521(a)(3) and does not provide consent under § 303.521(b)(1), the lack of consent may not be used to delay or deny any services under Part C of IDEA to that child or family.
H. 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.
I. If the state receives reimbursements from Federal funds (e.g., Medicaid reimbursements attributable directly to Federal funds) for services under Part C of IDEA, those funds are considered neither State nor local funds under § 303.225(b).
J. If the state spends funds from private insurance for services under Part C of IDEA, those funds are considered neither State nor local funds under § 303.225.
K. Funds received by Michigan from a parent or family member under the Michigan system of payments established under § 303.521 are considered program income under 34 CFR 80.25. These funds:
   1. Are not deducted from the total allowable costs charged under Part C of IDEA (as set forth in 34 CFR 80.25(g)(1));
   2. Must be used for the state's Part C early intervention services program, consistent with 34 CFR 80.25(g)(2); and
   3. Are considered neither State nor local funds under § 303.225(b).

System of payments and fees (§ 303.521)

A. Michigan has adopted a system of payments in § 303.500(b). Michigan's system of payments policies are in writing and specify which functions or services, if any, are subject to the system of payments, including that no fees are charged to the family as a result of using one or more of the family's public insurance or benefits. **To the extent applicable**, the policy includes:
   1. The payment system and clear indication of the no-cost participation for early intervention services under Part C of IDEA;
   2. The basis and amount of payments or fees;
   3. The State's definition of ability to pay, including definitions of income and family expenses, such as extraordinary medical expenses, the definition of inability to pay, and when and how the State makes its determination of the ability or inability to pay;
   4. An assurance that:
      a. Fees will not be charged to parents for the services that a child is otherwise entitled to receive at no cost including those services identified in this section;
      b. The inability of the parents of an infant or toddler with a disability to pay for services will not result in a delay or denial of services under Part C of IDEA to the child or the child's family such that, if the parent or family meets the Michigan definition of inability to pay, the infant or toddler with a disability must be provided all Part C services at no cost;

c. Families will not be charged any more than the actual cost of the Part C service, factoring in any amount received from other sources for payment for that service;
d. Families with public insurance or benefits will not be charged disproportionately more than families who do not have public insurance or benefits;
e. Provisions stating that the failure to provide the requisite income information and documentation may result in a charge of a fee on the fee schedule and specify the fee to be charged; and
f. Provisions that permit, but do not require, MDE to use Part C or other funds to pay for costs such as the premiums, deductibles, or co-payments.

B. The following required functions that must be carried out at public expense, and for which no fees may be charged to parents are included in the Michigan policy:
   1. Implementing the child find requirements in §§ 303.301 through 303.303.
   2. Evaluation and assessment, in accordance with § 303.320, and the functions related to evaluation and assessment in § 303.13(b).
   3. Service coordination services, as defined in §§ 303.13(b)(11) and 303.33.
   4. Administrative and coordinative activities related to:
      a. The development, review, and evaluation of IFSPs and interim IFSPs in accordance with §§ 303.342 through 303.345; and
      b. Implementation of the procedural safeguards in subpart E of Part C of IDEA and the other components of the statewide system of early intervention services in subpart D of Part C of IDEA and this subpart.

C. No fees or costs are collected from a parent or the child's family to pay for early intervention services under the Michigan system of payments.

D. Fees collected under a system of payments are considered neither State nor local funds under § 303.225(b).

E. Michigan's system of payments includes written policies to inform parents that a parent who wishes to contest the imposition of a fee, or the State's determination of the parent's ability to pay, may do one of the following:
   1. Participate in mediation in accordance with § 303.431.
   2. Request a due process hearing under § 303.441.
   3. File a State complaint under § 303.434.
   4. Use any other procedure established by the State for speedy resolution of financial claims, provided that such use does not delay or deny the parent's procedural rights under Part C of IDEA, including the right to pursue, in a timely manner, the redress options described in (1) through (3) above.

F. *Early On* informs parents of these procedural safeguard options by either:
   1. Providing parents with a copy of the State's system of payments policies when obtaining consent for provision of early intervention services under § 303.420(a)(3); or
   2. Including this information with the prior notice provided to parents under § 303.421.

Section G:
Items Aligned with Subpart G of Federal Regulations 34 CFR 303.600 through 303.605

Michigan Interagency Coordinating Council

I. General

Establishment of council (§ 303.600)
The current MICC (the Council) was established by former Governor Jennifer Granholm through Executive Order 2007-43 on November 19, 2007 to assist and advise the lead agency in implementing its responsibilities. The Council meets quarterly, at a minimum, and operates according to the Bylaws adopted by the Council. The Governor has appointed a chairperson who is not a representative of the lead agency. New and reappointed members are reviewed and appointed annually, providing full membership as required by Federal regulations.

Composition (§ 303.601)
The Council consists of 21 members. The following members are appointed by the Governor:

A. Five parents, or at least 20 percent of the members, including minority parents, of infants or toddlers with disabilities or children with disabilities less than 13 years old at the time of appointment with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than one of the members appointed under this paragraph shall be a parent of an infant or toddler with a disability or a child with a disability less than seven years old at the time of appointment.
B. Five individuals, or at least 20 percent of the members, representing public or private providers of early intervention services. As used in this paragraph, "early intervention services" means that phrase as defined under section 632(4) of IDEA, 20 U.S.C. 1432(4).
C. At least one individual representing the Michigan legislature.
D. At least one individual representing individuals involved in personnel preparation. As used in this paragraph, "personnel preparation" means that phrase as used in IDEA, 20 U.S.C. 1400-1444.
E. At least one member must be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families; and have sufficient authority to engage in policy planning and implementation on behalf of these agencies.
F. At least one member must be from the SEA responsible for preschool services to children with disabilities and have sufficient authority to engage in policy planning and implementation on behalf of the SEA.
G. At least one member must be from the agency responsible for the State Medicaid and the Children's Health Insurance Program (CHIP) program.
H. At least one member must be from a Head Start or Early Head Start agency or program in the state.
I. At least one member must be from a State agency responsible for child care.
J. At least one member must be from the agency responsible for the State regulation of private health insurance.
K. At least one member must be a representative designated by the Office of the Coordination of Education of Homeless Children and Youth.

L. At least one member must be a representative from the State child welfare agency responsible for foster care.
M. At least one member must be a representative from the State agency responsible for children's mental health.
N. The Governor may appoint three "other individuals" to serve and one of these individuals may include a representative of a tribal government located within the state.

The Governor may appoint one member to represent more than one program or agency listed. 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 State law.

Appointments are made through the Governor's office with careful attention to equitable representation and reasonably represent the population across the state.

Meetings (§ 303.602)
The Council shall meet a minimum of four times a year and at the call of the Chairperson, according to procedures adopted by the Council. All meetings are open and accessible and follow Robert's Rules of Order.

The Council shall adopt procedures consistent with State and Federal law and Executive Order governing its organization and operations and may establish committees and request public participation on advisory panels as the Council deems necessary. The Council also may adopt, reject, or modify any recommendations proposed by committees or advisory panels.

The Council maintains a web page that announces their meetings sufficiently in advance of the dates they are to be held to insure that all interested parties have an opportunity to attend. Agendas and relevant documents are also posted on the Council's web page (www.michigan.gov/micc).

Use of funds by the Council (§ 303.603)
Subject to the approval of the Governor, the Council may prepare and approve a budget using funds provided under Part C of IDEA to do one or more of the following:
A. Conduct hearings and forums.
B. Reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties, including, but not limited to child care for parents of infants or toddlers with developmental disabilities serving as members of the Council.
C. Pay compensation to a member of the Council if the member of the Council is not employed or must forfeit wages from other employment when performing official Council business.
D. Hire staff or obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out the functions of the Council under Part C of IDEA, consistent with applicable statutes, rules, and procedures of the Civil Service Commission.

E. Not offer compensation for participation of members from Part C funds other than in those circumstances in items (B) and (C).

II. Functions of the Council

Council required duties (§ 303.604)

The Council acts in an advisory capacity to the partner agencies, including:

A. Advising and assisting MDE:
   Advise and assist MDE in performing all of its responsibilities under § 635(a)(10) of IDEA statute (20 U.S.C. 1435), in order to maintain a statewide system of support for infants and toddlers with disabilities. The advice and assistance must include all of the following:
   1. Identification of sources of fiscal and other support for services for early intervention programs;
   2. Assignment of financial responsibility to appropriate agencies;
   3. Promotion of methods, including interagency and intra-agency agreements and collaboration regarding child find, monitoring and supervision; financial responsibility and provision of early intervention services; and transition from Part C to preschool; and
   4. Preparation of applications required under Part C and amendments to the applications.

B. Advising and assisting on transition:
   Advise and assist MDE regarding the transition of toddlers with disabilities to preschool and other appropriate services.

C. Annual Report to the Governor and the Secretary. The Council shall:
   1. Prepare and submit an annual report to the Governor and the United States Secretary of Education on the status of early intervention service programs operated within this state for infants and toddlers with disabilities and their families under Part C. The annual report will contain the information required by the Secretary for the year for which the report is made.
   2. The Council shall provide other information or advice as directed by the Governor related to infants and toddlers with disabilities.

Authorized activities by the Council (§ 303.605)

The Council may advise and assist MDE regarding the provision of appropriate services for children with disabilities from birth through the age of five. The Council may advise State departments and State agencies and other appropriate agencies regarding 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 Michigan. As used in this paragraph, "at-risk infant or toddler" means an individual under three years of age at risk of experiencing a substantial developmental delay if early intervention services are not provided to the individual.

Section H:
Items Aligned with Subpart H of Federal Regulations 34 CFR 303.700 through 303.734

State Monitoring, Reporting and Allocation of Funds

I. Federal and State Monitoring and Enforcement

State monitoring and enforcement (§ 303.700)
MDE monitors the implementation of Part C of IDEA and makes determinations annually about the performance of each local lead agency using the categories identified in § 303.703(b), those being:

A. Meets the requirements and purposes of Part C;
B. Needs assistance in implementing the requirements of Part C;
C. Needs intervention in implementing the requirements of Part C; or
D. Needs substantial intervention in implementing the requirements of Part C.

In addition, MDE monitors Part C of IDEA consistent with § 303.704, using appropriate enforcement mechanisms.

MDE reports annually on the performance of the State and of each local lead agency under Part C of IDEA as provided in § 303.702.

The primary focus of Michigan's monitoring activities is on improving early intervention results and functional outcomes for all infants and toddlers with disabilities, and ensuring that local lead agencies 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.

As a part of fulfilling its responsibilities, Michigan uses quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified below, and the indicators established by the Secretary for the state performance plans.

MDE monitors each local lead agency located in Michigan, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following areas:

A. Early intervention services in natural environments.
B. State exercise of general supervision, including child find, effective monitoring, use of resolution sessions, mediation, and a system of transition services as defined in section 637(a)(9) of IDEA.

In exercising its monitoring responsibilities, Michigan ensures that when it identifies noncompliance with the requirements of Part C of IDEA by local lead agencies, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance.

While the following sections of the Part C regulations provide direction regarding the Federal-to-State oversight of implementation of Part C, Michigan acknowledges that the regulations provide an opportunity to assure that, by operating parallel policies and procedures, the early intervention system in Michigan will be strengthened.

State performance plans and data collection (§ 303.701)
Michigan 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 Michigan's efforts to implement the requirements and purposes of Part C of IDEA, a description of how Michigan will improve implementation, and measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in § 303.700(d) (natural environments and general supervision). Michigan's State Performance Plan (SPP) is reviewed at least once every six years and any amendments are submitted to the Secretary.

Michigan 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 SPP.

If the Secretary permits states to collect data on specific indicators through State monitoring or sampling, and Michigan collects data for a particular indicator through State monitoring or sampling, Michigan collects and reports data on those indicators for each local lead agency at least once during the six-year period of an SPP.

It is acknowledged that nothing in Part C of IDEA or the Part C regulations (34 CFR 303) may be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part C of IDEA.

State use of targets and reporting (§ 303.702)
Michigan uses the targets established in the State's SPP under § 303.701 and the priority areas described in § 303.700(d) to analyze the performance of each local lead agency in implementing Part C of IDEA.

Michigan reports annually to the public on the performance of each local lead agency on the targets in Michigan's SPP as soon as practicable but no later than 120 days following the annual submission of the Michigan APR to the Secretary.

Michigan makes the SPP under § 303.701(a), APRs, and the State's annual reports on the performance of each local lead agency available through public means, including by posting on the web, distribution to the media, and distribution to local lead agencies.

Michigan 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 are insufficient to yield statistically reliable information.

Michigan's review and determination regarding local lead agency performance (§ 303.703)

Michigan aligns the review and determination of performance with the procedures of the Secretary's review of state performance. To make determinations, MDE reviews the local lead agency's actual performance on compliance indicators, information obtained through monitoring activities, the timely correction of any non-compliance, timely submission of data, timely submission of required reports, and any other available public information. MDE determines if the *Early On* service provider:

A. Meets the requirements and purposes of Part C of IDEA.
B. Needs assistance in implementing the requirements of Part C of IDEA.
C. Needs intervention in implementing the requirements of Part C of IDEA.
D. Needs substantial intervention in implementing the requirements of Part C of IDEA.

For any local lead agency receiving a determination other than "Meets Requirements," MDE provides reasonable notice and an opportunity to appeal those determinations. The appeal consists of a review of a written statement of appeal and any documentation submitted with the appeal that demonstrates why MDE should not make the assigned determination.

Michigan's enforcement of performance levels (§§ 303.704 – 303.705)

If MDE determines, for two consecutive years, that a local lead agency needs assistance in implementing the requirements of Part C of IDEA, MDE takes one or more of the following actions:

A. Advises the local lead agency of available sources of technical assistance that may help the local lead agency address the areas in which the local lead agency needs assistance, which may include assistance from MDE and technical assistance providers including Federally-funded nonprofit agencies, and requires the agency to work with appropriate entities. This technical assistance may include:
    1. The provision of advice by experts to address the areas in which the local lead agency 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, service coordinators, service providers, and other personnel 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, national centers of technical assistance supported under Part D of IDEA, and private providers of scientifically-based technical assistance.

B. Identifies the local lead agency as high-risk and imposes special conditions on the local lead agency's grant under Part C of IDEA.

If MDE determines, for three or more consecutive years, that a local lead agency needs intervention in implementing the requirements of Part C of IDEA, the following apply:

A. MDE may take any of the actions described in the previous paragraph.
B. MDE takes one or more of the following actions:
   1. Requires the local lead agency to prepare a corrective action plan or improvement plan if MDE determines that the local lead agency should be able to correct the problem within one year.
   2. Seeks to recover funds.
   3. Withholds, in whole or in part, any further payments to the local lead agency under Part C of IDEA.
C. Refers the matter for appropriate enforcement action.

Notwithstanding the previous two paragraphs, at any time that MDE determines that a local lead agency 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 local lead agency, MDE takes one or more of the following actions**.**

A. Recovers funds.
B. Withholds, in whole or in part, any further payments to the local lead agency under Part C of IDEA.
C. Refers the matter for appropriate enforcement action.

Public attention to Michigan's performance (§ 303.706)

Whenever Michigan receives notice that the USED Secretary is proposing to take or is taking an enforcement action pursuant to § 303.704, Michigan 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 Michigan, including by posting the notice on the web site of MDE and distributing the notice to the media and to the local lead agencies.

Rule of construction (§ 303.707)

Michigan acknowledges that nothing in this section of the Federal regulations may be construed to restrict the USED 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.

State enforcement (§ 303.708)

Michigan acknowledges that nothing in this section of the Federal regulations may be construed to restrict Michigan from utilizing any other authority available to monitor and enforce the requirements of IDEA.

II. Reports—Program Information

Data requirements—general (§ 303.720)
MDE annually reports to the USED Secretary and to the public on the information required by section 618 of IDEA at the times specified by the Secretary, and in the manner prescribed by the Secretary.

Annual report of children served--report requirement (§ 303.721)
For the purposes of the annual report required by section 618 of IDEA and § 303.720, MDE counts and reports the number of infants and toddlers receiving early intervention services on a specified date which falls between October 1 and December 1 of each year. The report includes:

A. The number and percentage of infants and toddlers with disabilities in Michigan, 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.
C. The number of due process complaints filed under section 615 of IDEA, the number of hearings conducted and the number of mediations held, and the number of settlement agreements reached through such mediations.

Data reporting (§ 303.722)
Michigan ensures that the data described in section 618(a) of IDEA and in § 303.721 is publicly reported in a manner that does not result in disclosure of data identifiable to individual children. While the USED Secretary may permit states to obtain data in section 618(a) of the Act through sampling, no sampling of the required data is currently being implemented in Michigan.

Annual report of children served—certification (§ 303.723)
In its report, MDE includes certification signed by the Superintendent of Public Instruction that the information provided under § 303.721 is an accurate and unduplicated count of infants and toddlers with disabilities receiving early intervention services.

Annual report of children served--other responsibilities of the lead agency (§ 303.724)
It is acknowledged that, in addition to meeting the requirements of §§ 303.721 through 303.723, MDE must conduct its own child count, and uses local lead agencies to complete its child count. To assist the local lead agencies in the child count, Michigan:

A. Established procedures to be used by the local lead agencies in counting the number of children with disabilities receiving early intervention services;
B. Established dates by which those local lead agencies must report in the

MSDS, to ensure that Michigan complies with § 303.721(a);

C. Electronically obtains certification from each local lead agency that an unduplicated and accurate count has been made;
D. Aggregates the data from the count obtained from each local lead agency and prepares the report required under §§ 303.721 through 303.723; and
E. Ensures that documentation is maintained to enable Michigan and the Secretary to audit the accuracy of the count.

III. Allocation of Funds

State allocations, payments to Indians, State allotments and reallotments, and reservation for State incentive grants (§§ 303.730 – 303.734)
Michigan acknowledges that regulations that align with 20 U.S.C. 1443 have been published, and which provide clarity regarding the USED Secretary's responsibilities for distribution of any funds for Part C of IDEA that have been authorized and appropriated by Congress.

APPENDIX A
Definitions from Federal Regulations

34 CFR 303.4 through 303.37 and Select Other 34 CFR 303 Definitions

§ 303.4 Act.
Act means the Individuals with Disabilities Education Act, as amended.
(Authority: 20 U.S.C. 1400(a))

§ 303.321(a)(2)(ii) Assessment.
Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility under this part and includes the assessment of the child, consistent with paragraph (c)(1) of this section and the assessment of the child's family, consistent with paragraph (c)(2) of this section.

§ 303.321(c)(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—

(i) A review of the results of the evaluation conducted under paragraph (b) of this section;

(ii) Personal observations of the child; and

(iii) The identification of the child's needs in each of the developmental areas in § 303.21(a)(1). [i.e., infant or toddler with a disability referenced below]

§ 303.321(c)(2) A family-directed assessment must be conducted by qualified personnel in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must—

(i) Be voluntary on the part of each family member participating in the assessment;

(ii) 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

(iii) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development.

§ 303.5 At-risk infant or toddler.
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. At the State's discretion, *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).
(Authority: 20 U.S.C. 1432(1), 1432(5)(B)(i) and 1437(a)(6))

§ 303.6 Child.
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 § 303.21.
(Authority: 20 U.S.C. 1432(5))

§ 303.7 Consent.
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 § 303.25;

(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; and

(c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) If a parent revokes consent, that revocation is not retroactive (*i.e.,* it does not apply to an action that occurred before the consent was revoked).
(Authority: 20 U.S.C. 1439)

§ 303.8 Council*.*
Council means the State Interagency Coordinating Council that meets the requirements of subpart G of this part.
(Authority: 20 U.S.C. 1432(2))

§ 303.9 Day.
Day means calendar day, unless otherwise indicated.
(Authority: 20 U.S.C. 1221e–3)

§ 303.10 Developmental delay*.*
Developmental delay, when used with respect to a child residing in a State, has the meaning given that term by the State under § 303.111.
(Authority: 20 U.S.C. 1432(3))

§ 303.11 Early intervention service program.
Early intervention service program or *EIS program* means an entity designated by the lead agency for reporting under §§ 303.700 through 303.702.
(Authority: 20 U.S.C. 1416, 1431–1444)

§ 303.12 Early intervention service provider.

(a) *Early intervention service provider* or *EIS provider* means an entity (whether public, private, or nonprofit) or an individual that provides early intervention services under part C of the Act, whether or not the entity or individual receives Federal funds under part C of the Act, 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 the State under part C of the Act.

(b) An EIS 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 for 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.
(Authority: 20 U.S.C. 1431–1444)

§ 303.13 Early intervention services.

(a) *General. Early intervention services* means 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 or State law provides for a system of payments by families, including a schedule of sliding fees;

(4) Are designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family to assist appropriately in the infant's or toddler's development, as identified by the IFSP Team, in any one or more of the following areas, including—

(i) Physical development;

(ii) Cognitive development;

(iii) Communication development;

(iv) Social or emotional development; or

(v) Adaptive development;

(5) Meet the standards of the State in which the early intervention services are provided, including the requirements of part C of the Act;

(6) Include services identified under paragraph (b) of this section;

(7) Are provided by *qualified personnel* (as that term is defined in § 303.31), including the types of personnel listed in paragraph (c) 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); and

(9) Are provided in conformity with an IFSP adopted in accordance with section 636 of the Act and § 303.20.

(b) *Types of early intervention services.* Subject to paragraph (d) of this section, early intervention services include the following services defined in this paragraph:

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

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

(ii) *Assistive technology service* means any service that directly assists an infant or toddler with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

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

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

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

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

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

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

(2) *Audiology services* include—

(i) Identification of children with auditory impairments, using at-risk criteria and appropriate audiologic screening techniques;

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

(iii) Referral for medical and other services necessary for the habilitation or rehabilitation of an infant or toddler with a disability who has an auditory impairment;

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

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

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

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

(4) *Health services* has the meaning given the term in § 303.16.

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

(6) *Nursing services* include—

(i) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual or potential health problems;

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

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

(7) *Nutrition services* include—

(i) Conducting individual assessments in—

(A) Nutritional history and dietary intake;

(B) Anthropometric, biochemical, and clinical variables;

(C) Feeding skills and feeding problems; and

(D) Food habits and food preferences;

(ii) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings in paragraph (b)(7)(i) of this section; and

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

(8) *Occupational therapy* includes services to address the functional needs of an infant or toddler with a disability related to adaptive development, adaptive behavior, and play, and sensory, motor, and postural development. These services are designed to improve the child's functional ability to perform tasks in home, school, and community settings, and include—

(i) Identification, assessment, and intervention;

(ii) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

(iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(9) *Physical therapy* includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include—

(i) Screening, evaluation, and assessment of children to identify movement dysfunction;

(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

(iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for, movement dysfunction and related functional problems.

(10) *Psychological services* include—

(i) Administering psychological and developmental tests and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and

(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(11) *Service coordination services* has the meaning given the term in § 303.34.

(12) *Sign language and cued language services* include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.

(13) *Social work services* include—

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;

(ii) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;

(iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;

(iv) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and

(v) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.

(14) *Special instruction* includes—

(i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;

(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the IFSP for the infant or toddler with a disability;

(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and

(iv) Working with the infant or toddler with a disability to enhance the child's development.

(15) *Speech-language pathology services* include—

(i) Identification of children with communication or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communication or language disorders and delays in development of communication skills; and

(iii) Provision of services for the habilitation, rehabilitation, or prevention of communication or language disorders and delays in development of communication skills.

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

(17) *Vision services* mean—

(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(iii) Communication skills training, orientation and mobility training for all environments, visual training, and additional training necessary to activate visual motor abilities.

(c) *Qualified personnel.* The following are the types of qualified personnel who provide early intervention services under this part:

(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 dieticians.
(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.
(13) Vision specialists, including ophthalmologists and optometrists.
(d) *Other services.* The services and personnel identified and defined in paragraphs (b) and (c) of 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. Nothing in this section prohibits the identification in the IFSP of another type of service as an early intervention service provided that the service meets the criteria identified in paragraph (a) of this section or of another type of personnel that may provide early intervention services in accordance with this part, provided such personnel meet the requirements in § 303.31.
(Authority: 20 U.S.C. 1432(4))

§ 303.14 Elementary school.
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.
(Authority: 20 U.S.C. 1401(6))

§ 303.321(a)(2)(i) Evaluation.
Evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this part, consistent with the definition of *infant or toddler with a disability* in § 303.21.

§ 303.15 Free appropriate public education.
Free appropriate public education or *FAPE,* as used in § 303.211, § 303.501, and § 303.521, 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 the Act;
(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320 through 300.324.
(Authority: 20 U.S.C. 1401(9))

§ 303.16 Health services.

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

(b) The term includes—

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

(2) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include—

(1) Services that are—

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

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

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

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

(B) Nothing in this part prevents the EIS provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (*e.g.,* cochlear implant) of an infant or toddler with a disability are functioning properly;

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

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

(Authority: 20 U.S.C. 1432(4))

§ 303.17 Homeless children.

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 *et seq.*

(Authority: 20 U.S.C. 1401(11))

§ 303.18 Include; including.

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.

(Authority: 20 U.S.C. 1221e–3)

§ 303.19 Indian; Indian tribe.

(a) *Indian* 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 Register** 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.

(Authority: 20 U.S.C. 1401(12)–(13))

§ 303.20 Individualized family service plan.

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.

(Authority: 20 U.S.C. 1401(15), 1435(a)(4), 1436))

§ 303.21 Infant or toddler with a disability*.*

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

(1) Is experiencing a developmental delay, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

(iv) Social or emotional development.

(v) Adaptive development; or

(2) Has a diagnosed physical or mental condition that—

(i) Has a high probability of resulting in developmental delay; and

(ii) Includes conditions such as chromosomal abnormalities; genetic or congenital disorders; sensory impairments; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; severe attachment disorders; and disorders secondary to exposure to toxic substances, including fetal alcohol syndrome.

(b) *Infant or toddler with a disability* may include, at a State's discretion, an *at-risk infant or toddler* (as defined in § 303.5).

(c) *Infant or toddler with a disability* may include, at a State's discretion, a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part until the child enters, or is eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this part must include—

(1) An educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children ages three and older who receive part C services pursuant to § 303.211; and

(2) A written notification to parents of a child with a disability who is eligible for services under section 619 of the Act and who previously received services under this part of their rights and responsibilities in determining whether their child will continue to receive services under this part or participate in preschool programs under section 619 of the Act.

(Authority: 20 U.S.C. 1401(16), 1432(5))

§ 303.321(a)(2)(iii) Initial assessment.

Initial assessment refers to the assessment of the child and the family assessment conducted prior to the child's first IFSP meeting.

§ 303.321(a)(2)(i) Initial evaluation.

An *initial evaluation* refers to the child's evaluation to determine his or her initial eligibility under this part.

§ 303.22 Lead agency.

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of the Act and § 303.120 that receives funds under section 643 of the Act to administer the State's responsibilities under part C of the Act.

(Authority: 20 U.S.C. 1435(a)(10))

§ 303.23 Local educational agency.

(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.

(b) *Educational service agencies and other public institutions or agencies.* The term includes the following:

(1) *Educational service agency,* defined as a regional public multiservice agency—

(i) Authorized by State law to develop, manage, and provide services or programs to LEAs; and

(ii) 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.

(2) 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.

(3) Entities that meet the definition of *intermediate educational unit* or *IEU* in section 602(23) of the Act, as in effect prior to June 4, 1997. Under that definition an *intermediate educational unit* or *IEU* means any public authority other than an LEA that—

(i) Is under the general supervision of a State educational agency;

(ii) Is established by State law for the purpose of providing FAPE on a regional basis; and

(iii) Provides special education and related services to children with disabilities within the State.

(c) *BIE-funded schools.* The term includes an elementary school or secondary school funded by the Bureau of Indian Education, 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 the Act with the smallest student population.
(Authority: 20 U.S.C. 1401(5), 1401(19))

§ 303.24 Multidisciplinary.
Multidisciplinary means the involvement of two or more separate disciplines or professions and with respect to—

(a) Evaluation of the child in §§ 303.113 and 303.321(a)(1)(i) and assessments of the child and family in § 303.321(a)(1)(ii), may include one individual who is qualified in more than one discipline or profession; and

(b) The IFSP Team in § 303.340 must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator (consistent with § 303.343(a)(1)(iv)).
(Authority: 20 U.S.C. 1221e–3, 1435(a)(3), 1436(a)(1), 1436(a)(3))

§ 303.25 Native language.

(a) *Native language,* when used with respect to an individual who is limited English proficient or LEP (as that term is defined in section 602(18) of the Act), means—

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section; and

(2) For evaluations and assessments conducted pursuant to § 303.321(a)(5) and (a)(6), the language normally used by the child, if determined developmentally appropriate for the child by qualified personnel conducting the evaluation or assessment.

(b) *Native language,* when used with respect to an individual who is deaf or hard of hearing, blind or visually impaired, or for an individual with no written language, means the mode of communication that is normally used by the individual (such as sign language, braille, or oral communication).
(Authority: 20 U.S.C. 1401(20))

§ 303.26 Natural environments.
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 § 303.126.
(Authority: 20 U.S.C. 1432, 1435, 1436)

§ 303.27 Parent.

(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 § 303.422 or section 639(a)(5) of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of 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 service decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (a)(4) of 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 the Act, except that if an EIS provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as the parent for that child.

(Authority: 20 U.S.C. 1401(23), 1439(a)(5))

§ 303.28 Parent training and information center.

Parent training and information center means a center assisted under section 671 or 672 of the Act.

(Authority: 20 U.S.C. 1401(25))

§ 303.29 Personally identifiable information.

Personally identifiable information 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 this part and any reference to ''school'' means ''EIS provider'' as used in this part.

(Authority: 20 U.S.C. 1415, 1439)

§ 303.30 Public agency.

As used in this part, *public agency* means the lead agency and any other agency or political subdivision of the State.

(Authority: 20 U.S.C. 1435(a)(10))

§ 303.31 Qualified personnel.

Qualified personnel means personnel who have met 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.
(Authority: 20 U.S.C. 1432(4)(F))

§ 303.32 Scientifically-based research.
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). In applying the ESEA to the regulations under part C of the Act, any reference to ''education activities and programs'' refers to ''early intervention services.''
(Authority: 20 U.S.C. 1435(a)(2))

§ 303.33 Secretary.
Secretary means the Secretary of Education.
(Authority: 20 U.S.C. 1401(28))

§ 303.34 Service coordination services (case management).

(a) *General.* (1) As used in this part, *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 this part.

(2) Each infant or toddler with a disability and the child's family must be provided with one service coordinator who is responsible for—

(i) Coordinating all services required under this part across agency lines; and

(ii) Serving as the single point of contact for carrying out the activities described in paragraphs (a)(3) and (b) of this section.

(3) Service coordination is an active, ongoing process that involves—

(i) Assisting parents of infants and toddlers with disabilities in gaining access to, and coordinating the provision of, the early intervention services required under this part; and

(ii) 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.

(b) *Specific service coordination services.* Service coordination services include—

(1) Assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP, including making referrals to providers for needed services and scheduling appointments for infants 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 EIS providers;

(6) Coordinating, facilitating, and monitoring the delivery of services required under this part 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 subpart E of this part and related resources;

(9) Coordinating the funding sources for services required under this part; and

(10) Facilitating the development of a transition plan to preschool, school, or, if appropriate, to other services.

(c) *Use of the term service coordination or service coordination services.* The lead agency's or an EIS provider's use of the term *service coordination* or *service coordination services* does not preclude characterization of the services as case management or any other service that is covered by another payor of last resort (including Title XIX of the Social Security Act—Medicaid), for purposes of claims in compliance with the requirements of §§ 303.501 through 303.521 (Payor of last resort provisions).

(Authority: 20 U.S.C. 1432(4), 1435(a)(4), 1436(d)(7), 1440)

§ 303.35 State.

Except as provided in § 303.732(d)(3) (regarding State allotments under this part), *State* means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the four outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(31))

§ 303.36 State educational agency.

(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, an 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 the Act.

(Authority: 20 U.S.C. 1401(32))

§ 303.37 Ward of the State.

(a) *General.* Subject to paragraph (b) of this section, *ward of the State* means a child who, as determined by the State where the child resides, is—

(1) A foster child;

(2) A ward of the State; or

(3) In the custody of a public child welfare agency.

(b) *Exception. Ward of the State* does not include a foster child who has a foster parent who meets the definition of a *parent* in § 303.27.

(Authority: 20 U.S.C. 1401(36))