



# Individuals With Disabilities Education Act Part C: Early Intervention Program for Infants and Toddlers With Disabilities



Final Regulations Side-by-Side  
Comparison  
SUBPART A  
October 2011



Council for  
Exceptional  
Children



Division for  
Early Childhood

The voice and vision of special education



# Subpart A - General

## Individuals with Disabilities Education Act: Part C Early Intervention Program for Infants and Toddlers with Disabilities Final Regulations

This side-by-side comparison of the 2011 final regulations to the 1999 Part C regulations serves as a tool to assist readers in understanding the new regulations and preparing their own analysis related to Part C. Permission to copy is not required and distribution is encouraged. Please give credit to CEC/DEC/ITCA



**The Council for Exceptional Children (CEC)** is the largest international professional organization dedicated to improving the educational success of individuals with disabilities and/or gifts and talents. CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice. [www.cec.sped.org](http://www.cec.sped.org)

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**Division of Early Childhood** is one of seventeen divisions of the Council for Exceptional Children (CEC) - the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities, and/or the gifted. DEC is especially for individuals who work with or on behalf of children with special needs, birth through age eight, and their families. [www.dec-sped.org](http://www.dec-sped.org)

For more information, please contact Sarah Mulligan, Executive Director for the Division for Early Childhood at [sara.mulligan@dec.sped.org](mailto:sara.mulligan@dec.sped.org), or 406-543-872 x224, or Sharon Walsh, Governmental Liaison at [WALSHTAYLO@aol.com](mailto:WALSHTAYLO@aol.com).



**Infant and Toddler Coordinators Association**

The Individuals with Disabilities Education Act (IDEA) Infant and Toddler Coordinators Association is organized as a not-for-profit corporation to promote mutual assistance, cooperation, and exchange of information and ideas in the administration of Part C and to provide support to state and territory Part C coordinators. [www.ideainfanttoddler.org](http://www.ideainfanttoddler.org)

For more information, please contact Maureen Greer, Executive Director or Sharon Walsh, Governmental Liaison at (317)251-0125 or [ideaitca@aol.com](mailto:ideaitca@aol.com)

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# Introduction

On Sept. 28, 2011, new regulations for the Part C Early Intervention Program for Infants and Toddlers with Disabilities were published in the Federal Register. These regulations, promulgated under the Individuals with Disabilities Education Act (IDEA), were in response to IDEA 2004, the most recent reauthorization of IDEA. Public comments had been received on a Noticed of Proposed Rulemaking (NPRM) for Part C published May 9, 2007. These final regulations are effective Oct. 28, 2011.

The Council for Exceptional Children (CEC), its Division for Early Childhood (DEC) and the IDEA Infant Toddler Coordinators Association (ITCA) are pleased to provide this side-by-side comparison of the 2011 final Part C regulations to the 1999 Part C regulations. This document is designed as a tool to assist readers in understanding the new regulations in relation to the 1999 regulations.

The document is available for downloading in two different formats. The complete document, organized into its eight subparts, can be downloaded or selected subparts can be downloaded. The document is organized according to the subparts in the 1999 regulations with the exception of a new Subpart H, which is based on the new regulations.

Subpart A: General

Subpart B: State Application for a Grant and Requirements for a Statewide System

Subpart C: Procedures for Making Grants to States

Subpart D: Program and Service Components of a Statewide System of Early Intervention Services

Subpart E: Procedural Safeguards

Subpart F: State Administration

Subpart G: State Interagency Coordinating Council

Subpart H: Monitoring and Enforcement; Reporting; and Allocation of Funds

Both formats of the document are available at the Web sites of all three associations:

[www.cec.sped.org](http://www.cec.sped.org)

[www.dec-sped.org](http://www.dec-sped.org)

[www.ideainfanttoddler.org](http://www.ideainfanttoddler.org)

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The side-by-side format of the document includes:

- *Left column* “1999 Part C Regulations” includes the current Part C regulations last published in the Federal Register on March 12, 1999.
- *Middle column* “2011 Part C Regulations” provides sections of the new regulations aligned next to the applicable 1999 regulatory section.
- *Right column* “U.S. Department of Education Selected Analysis of Comments and Changes” includes selected quotes from this introductory section of the new Part C regulations package. These quotes are selected to provide the reader with an understanding of why a particular regulation was changed or not as compared with the NPRM. These quotes also provide additional clarification of the Department’s intent when revising or adding a particular final regulation.

The reader should note a few things in reviewing the new regulations. First, all “notes” that are included in the current regulations have been removed. Also, specific language from 34 CFR Part 300, related to confidentiality and dispute resolution, has been incorporated into relevant sections of the Part C regulations package with necessary changes made for applicability to Part C.

Finally, the reader should note that in many instances, the final regulations represent a reorganization of the existing regulations. Numerous provisions have been moved and resulting citations have changed. These changes made the task of alignment difficult. While we have made every effort to ensure accurate alignment of the new provisions, there may be instances in which this was not possible.

The final Part C regulations contain numerous changes and additions. The reader is encouraged to consider and review the new regulations completely. The following are a selected list of changes made and areas to review:

- Definitions of key terms, including multidisciplinary, natural environments, and native language, have been revised and new definitions, including local educational agency (LEA) and scientifically-based research have been added.
- Transition requirements have been revised, including provisions related to notification to the local educational agency (LEA) and state educational agency (SEA), timelines, an opt-out policy, the transition conference, and the transition plan.

- An optional state screening policy has been added as part of a new organizational structure of pre-referral, referral, and post-referral activities.
- The two working-day requirement from identification to referral has been changed to “as soon as possible but no more than 7 calendar days after identification.”
- The 45-day required timeline from referral to the IFSP meeting has been retained with the addition of some provisions permitting documentation of extraordinary circumstances for a delay.
- Child Find provisions have been changed to add programs with which the lead agency must collaborate.
- Definitions and provisions for evaluation and assessment including family assessment have been revised.
- Required provisions for the “use of informed clinical opinion” have been clarified.
- Natural environment provisions have been revised to reflect the 2004 statutory change.
- Changes in the content of the IFSP have been made including in the “early intervention services” and “other services” components.
- Several changes have been made to procedural safeguards, including provisions related to written prior notice, confidentiality, surrogate parents, and dispute resolution.
- Changes have been made in provisions related to financial responsibility, systems of payment, and ability to pay, as well as to the use of public benefits and insurance and private insurance.
- Provisions related to monitoring, enforcement, reporting, and allocation have been included in a new subpart of the Part C regulations.

The Department has announced plans to publish a Notice of Proposed Rulemaking (NPRM) related to maintenance of effort (MOE) requirements with an opportunity for public comment in the near future.

As you work to implement these new regulations in order to serve infants and toddlers with disabilities and their families, CEC, DEC, and ITCA stand ready to serve as a resource for you.

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.1 Purpose of the early intervention program for infants and toddlers with disabilities.</u></b>                      The purpose of this part is to provide financial assistance to States to—</p> <p>(a) Maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;</p> <p>(b) Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);</p> <p>(c) Enhance the States’ capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and</p> <p>(d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city, and rural populations.</p>	<p><b><u>§303.1 Purpose of the early intervention program for infants and toddlers with disabilities.</u></b>                      The purpose of this part is to provide financial assistance to States to--</p> <p>(a) Develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;</p> <p>(b) Facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);</p> <p>(c) Enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families;</p> <p>(d) Enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, including historically underrepresented populations, particularly minority, low-income, inner-city, and rural children, and infants and toddlers in foster care; and</p> <p>(e) Encourage States to expand opportunities for children under three years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.</p>	
<p><b><u>§303.2 Eligible recipients of an award.</u></b>                      Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa,</p>	<p><b><u>§303.2 Eligible recipients of an award and applicability of this part.</u></b>                      (a) Eligible recipients of an award. Eligible recipients include the 50 States, the Commonwealth of Puerto Rico, the District of</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.2 Eligible recipients of an award.</u></b> the Virgin Islands, the Commonwealth of the Northern Mariana Islands.</p>	<p><b><u>§303.2 Eligible recipients of an award and applicability of this part.</u></b> Columbia, the Secretary of the Interior, and the following jurisdictions: Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.</p>	
<p><b><u>§303.3 Activities that may be supported under this part.</u></b> Funds under this part may be used for the following activities: (a) To maintain and implement a statewide system of early intervention services for children eligible under this part and their families. (b) For direct services for eligible children and their families that are not otherwise provided from other public or private sources. (c) To expand and improve on services for eligible children and their families that are otherwise available, consistent with § 303.527. (d) To provide a free appropriate public education, in accordance with part B of the Act, to children with disabilities from their third birthday to the beginning of the following school year. (e) To strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community based organizations, services, and personnel for the purpose of— (1) Identifying and evaluating at-risk infants and toddlers; (2) Making referrals of the infants and toddlers identified and evaluated under paragraph (e)(1) of this section; and (3) Conducting periodic follow-up on each referral</p>	<p><b><u>NOTE: This regulation now appears under Subpart F at §303.501 Permissive use of funds by lead agency.</u></b></p>	

SUBPART A- GENERAL		
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<p><b><u>§303.3 Activities that may be supported under this part.</u></b>                      under paragraph (e)(2) of this section to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.</p>		
<p><b><u>§303.4 Limitation on eligible children.</u></b>                      This part 303 does not apply to any child with disabilities receiving a free appropriate public education, in accordance with 34 CFR part 300, with funds received under 34 CFR part 301.</p>	<p><b><u>§303.2 Eligible recipients of an award and applicability of this part.</u></b>                      (b) Applicability of this part.                      (1) The provisions of this part apply to--                      (i) The State lead agency and any EIS provider that is part of the statewide system of early intervention, regardless of whether that EIS provider receives funds under Part C of the Act; and                      (ii) All children referred to the Part C program, including infants and toddlers with disabilities consistent with the definitions in §§303.6 and 303.21, and their families.                      (2) The provisions of this part do not apply to any child with a disability receiving a free appropriate public education or FAPE under 34 CFR part 300.</p>	<p>The Department explained the placement of “the language from current §303.4 in a new paragraph (b) under §303.2 to clarify that the regulations in Part 303 do not apply to a child with a disability who is receiving FAPE under Part B of the Act.”</p> <p>The Department noted changes in “this provision to identify the entities that must comply with Part 303. Part 303 applies to the lead agency and any EIS provider that is part of the Part C statewide system ... regardless of whether the EIS provider receives funds under Part C of the Act.”</p>
<p><b><u>§303.5 Applicable regulations.</u></b>                      (a) The following regulations apply to this part:                      (1) The Education Department General Administrative Regulations (EDGAR), including—                      (i) Part 76 (State Administered Programs), except for § 76.103;                      (ii) Part 77 (Definitions that Apply to Department Regulations);                      (iii) Part 79 (Intergovernmental Review of Department of Education Programs and Activities);                      (iv) Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);</p>	<p><b><u>§303.3 Applicable regulations.</u></b>                      (a) The following regulations apply to this part:                      (1) The regulations in this part 303.                      (2) 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.</p>	

SUBPART A- GENERAL		
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<p><b><u>§303.5 Applicable regulations.</u></b>                      (v) Part 81 (Grants and Cooperative Agreements under the General Education Provisions Act Enforcement);                      (vi) Part 82 (New Restrictions on Lobbying); and                      (vii) Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Work Place (Grants)).                      (2) The regulations in this part 303.                      (3) The following regulations in 34 CFR part 300 (Assistance to States for the Education of Children with Disabilities Program): §§ 300.560–300.577, and §§ 300.580–300.585.</p>		
<p><b><u>§303.5 Applicable regulations.</u></b>                      (b) In applying the regulations cited in paragraphs (a)(1) and (a)(3) of this section, any reference to—                      (1) State educational agency means the lead agency under this part;                      (2) Special education, related services, free appropriate public education, free public education, or education means “early intervention services” under this part;                      (3) Participating agency, when used in reference to a local educational agency or an intermediate educational agency, means a local service provider under this part;                      (4) Section 300.128 means §§ 303.164 and 303.321; and                      (5) Section 300.129 means § 303.460.</p>	<p><b><u>§303.3 Applicable regulations.</u></b>                      (b) In applying the regulations cited in paragraph (a)(2) of this section, any reference to--                      (1) State educational agency means the lead agency under this part; and                      (2) Education records or records means early intervention records.</p>	<p>The Department indicated, “using multiple terms to refer to early intervention records is confusing and, therefore [the Department] has changed all references to ‘Part C records,’ ‘education records,’ and ‘the records’ in this part to ‘early intervention records.’”</p>
<p><b><u>§303.6 Act.</u></b>                      As used in this part, Act means the Individuals with Disabilities Education Act.</p>	<p><b><u>§303.4 Act.</u></b>                      Act means the Individuals with Disabilities Education Act, as amended.</p>	
	<p><b><u>§303.5 At-risk infant or toddler.</u></b>                      At-risk infant or toddler means an individual under</p>	<p>The Department noted “For clarity, [the Department] has replaced the phrase ‘such as,’</p>

SUBPART A- GENERAL		
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	<p><b><u>§303.5 At-risk infant or toddler.</u></b>                      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).</p>	<p>which precedes the list of factors, with the word ‘including.’ The Department notes that the definitions of include and including in §303.18 clarify that the items named in a particular list are not all of the possible items that are covered, whether like or unlike the ones named. This change clarifies that the list of factors is not exhaustive.”</p>
<p><b><u>§303.7 Children.</u></b>                      As used in this part, children means infants and toddlers with disabilities as that term is defined in §. 303.16.</p>	<p><b><u>§303.6 Child.</u></b>                      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.</p>	
<p><b><u>§303.401 Definitions of consent, native language, and personally identifiable information.</u></b>                      As used in this subpart--                      (a) Consent means that—                      (1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication;                      (2) The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and                      (3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;</p>	<p><b><u>§303.7 Consent.</u></b>                      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</p>	

SUBPART A- GENERAL		
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	<p><b>§303.7 Consent.</b> not retroactive (i.e., it does not apply to an action that occurred before the consent was revoked).</p>	
<p><b>§303.8 Council.</b> As used in this part, Council means the State Interagency Coordinating Council.</p>	<p><b>§303.8 Council.</b> Council means the State Interagency Coordinating Council that meets the requirements of subpart G of this part.</p>	
<p><b>§303.9 Days.</b> As used in this part, days means calendar days.</p>	<p><b>§303.9 Day.</b> Day means calendar day, unless otherwise indicated.</p>	
<p><b>§303.10 Developmental delay.</b> As used in this part, “developmental delay,” when used with respect to an individual residing in a State, has the meaning given to that term under § 303.300.</p>	<p><b>§303.10 Developmental delay.</b> 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.</p>	
<p><b>§303.11 Early intervention program.</b> As used in this part, early intervention program means the total effort in a State that is directed at meeting the needs of children eligible under this part and their families.</p>	<p><b>§303.11 Early intervention service program.</b> Early intervention service program or EIS program means an entity designated by the lead agency for reporting under §§303.700 through 303.702.</p>	
<p><b>§303.12 Early intervention services.</b> (a) General. As used in this part, early intervention services means services that— (1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child’s development; (2) Are selected in collaboration with the parents; (3) Are provided— (i) Under public supervision; (ii) By qualified personnel, as defined in § 303.21, including the types of personnel listed in paragraph (e) of this section; (iii) In conformity with an individualized family</p>	<p><b>§303.13 Early intervention services.</b> (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 following areas, including--</p>	<p>The Department notes “inclusion of the language ‘as requested by the family’ could be interpreted to mean that addressing the needs of a family of an infant or toddler with a disability is not an essential component of early intervention services under Part C of the Act. This was not [the Department’s] intention in proposing this language. Therefore, for clarity [the Department] has removed this phrase from §303.13(a)(4).”</p> <p>Further, “Social and emotional development are two distinct developmental areas. Therefore, section 632(4)(C)(iv) of the Act and §303.13(a)(4)(iv) use the term ‘or’ to make clear</p>

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<p><b><u>§303.12 Early intervention services.</u></b>                      service plan; and                      (iv) At no cost, unless, subject to § 303.520(b)(3), Federal or State law provides for a system of payments by families, including a schedule of sliding fees; and                      (4) Meet the standards of the State, including the requirements of this part.                      (b) Natural environments. To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	<p>that early intervention services may address a child’s needs in either developmental area.”</p> <p>Further, “If the IFSP Team determines that a child or family needs services to help the child learn when a teacher or therapist is not present, then that outcome, and services to meet that outcome, must be included in the IFSP. This individualized approach, in which appropriate outcomes and services are determined by the IFSP Team in light of each child’s unique needs, is appropriate and is addressed sufficiently under this part.”</p> <p>The Department also clarified, “Concerning the comment about providing family members with the necessary tools to help an infant or toddler with a disability learn even when a teacher or therapist is not present, [the Department] agrees that EIS providers should work with the parents of an infant or toddler with a disability so that the parents can continue to assist the child whenever a learning opportunity occurs. However, in addition to the reasons stated, adding language to §303.13 as requested is not necessary because the definition of <u>EIS provider</u> in §303.12(b)(3) specifies that such providers are responsible for consulting with and training parents and others concerning the provision of early intervention services described in the IFSP of the infant or toddler with a disability. Additionally, this consultation and training will provide family members with the tools to facilitate a child’s development even when a teacher or therapist is not present.”</p>

SUBPART A- GENERAL		
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<p><b><u>§303.12 Early intervention services.</u></b>                      (c) General role of service providers. To the extent appropriate, service providers in each area of early intervention services included in paragraph (d) of this section are responsible for—                      (1) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;                      (2) Training parents and others regarding the provision of those services; and                      (3) Participating in the multidisciplinary team’s assessment of a child and the child’s family, and in the development of integrated goals and outcomes for the individualized family service plan.</p>	<p><b><u>§303.12 Early intervention service provider.</u></b>                      (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.</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      Types of services; definitions. Following are types of services included under “early intervention services,” and, if appropriate, definitions of those services:</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (b) Types of early intervention services. Subject to paragraph (d) of this section, early intervention services include the following services defined in this paragraph:</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (1) Assistive technology device means any item, piece of equipment, or product system, whether</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (1) Assistive technology device and service are defined as follows:</p>	<p>The Department notes “Whether a hearing aid or an appropriate related audiological service is considered an assistive technology device or an</p>

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<p><b><u>§303.12 Early intervention services.</u></b>                      acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	<p>early intervention service, respectively, for an infant or toddler with a disability depends on whether the device or service is used to increase, maintain, or improve the functional capabilities of the child and whether the IFSP Team determines that the infant or toddler needs the device or service in order to meet his or her specific developmental outcomes.”</p> <p>The Department also noted that, “while Part C lead agencies are not responsible for providing personal devices meant for daily or personal use, such as eyeglasses, hearing aids, or prosthetic limbs, to an infant or toddler with a disability, these devices may be an early intervention service if the device is not surgically implanted (§303.13(b)(1)(i) specifically excludes medical devices that are surgically implanted), and the IFSP Team determines that the infant or toddler with a disability requires such a personal device to meet the unique developmental needs of that infant or toddler.”</p> <p>Further, “Section 602(1)(B) of the Act excludes from the definition of an assistive technology device “a medical device that is surgically implanted, or the replacement of such device.” ...A cochlear implant, as a surgically implanted medical device, is excluded from being an assistive technology device under section 602(1)(B) and, therefore, optimization (e.g., mapping) of a cochlear implant cannot directly assist an infant or toddler with a disability with regard to an assistive technology device that is covered under the Act. Thus, optimization (e.g., mapping) is not an</p>

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1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>assistive technology service and excluding optimization from the definition of early intervention service is consistent with the Act.”</p> <p>The Department also notes “that the exclusion of mapping does not prevent the appropriate early intervention service provider from checking to ensure the device is working.”</p>
<p><b><u>§303.12 Early intervention services.</u></b>                      Assistive technology service means a service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include—</p> <ul style="list-style-type: none"> <li>(i) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;</li> <li>(ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;</li> <li>(iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;</li> <li>(iv) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;</li> <li>(v) Training or technical assistance for a child with disabilities or, if appropriate, that child’s family; and</li> <li>(vi) Training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially</li> </ul>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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-</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(B) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by infants or toddlers with disabilities;</li> <li>(C) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;</li> <li>(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;</li> <li>(E) Training or technical assistance for an infant or toddler with a disability or, if appropriate, that child’s family; and</li> <li>(F) Training or technical assistance for professionals (including individuals providing education or rehabilitation services) or other individuals who provide services to, or are</li> </ul>	

<b>SUBPART A- GENERAL</b>		
<b>1999 Part C Regulations</b>	<b>2011 Part C Regulations</b>	<b>U.S. Department of Education Selected Analysis of Comments and Changes</b>
<p><b><u>§303.12 Early intervention services.</u></b> involved in the major life functions of individuals with disabilities.</p>	<p><b><u>§303.13 Early intervention services.</u></b> otherwise substantially involved in the major life functions of, infants and toddlers with disabilities.</p>	
<p><b><u>§303.12 Early intervention services.</u></b> (2) Audiology includes— (i) Identification of children with auditory impairment, 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 children with auditory impairment; (iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services; (v) Provision of services for prevention of hearing loss; and (vi) Determination of the child’s need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.</p>	<p><b><u>§303.13 Early intervention services.</u></b> (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.</p>	
<p><b><u>§303.12 Early intervention services.</u></b> (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 a child eligible under this part in understanding the special needs of the child and enhancing the child’s development.</p>	<p><b><u>§303.13 Early intervention services.</u></b> (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.</p>	<p>The Department clarified “The language in §303.13(b)(3) does not mean that family training must occur in the home or include counseling. Section 303.13(b)(3) merely defines three separate early intervention services -- family training, counseling, and home visits -- that may be provided 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.”</p>

<b>SUBPART A- GENERAL</b>		
<b>1999 Part C Regulations</b>	<b>2011 Part C Regulations</b>	<b>U.S. Department of Education Selected Analysis of Comments and Changes</b>
<p><b><u>§303.12 Early intervention services.</u></b>                      (4) Health services (See § 303.13).</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (4) Health services has the meaning given the term in §303.16.</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (5) Medical services only for diagnostic or evaluation purposes means services provided by a licensed physician to determine a child’s developmental status and need for early intervention services.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (6) Nursing services includes—                      (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) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and                      (iii) Administration of medications, treatments, and regimens prescribed by a licensed physician.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	<p>The Department noted “While nursing services and nutrition services are not specifically mentioned in the Act, they historically have been included in the definition of early intervention services.”</p>
<p><b><u>§303.12 Early intervention services.</u></b>                      (7) Nutrition services includes—                      (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 (d)(7)(i) of this section; and                      (iii) Making referrals to appropriate community resources to carry out nutrition goals.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.12 Early intervention services.</u></b>                      (8) Occupational therapy includes services to address the functional needs of a child 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.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (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 infants and toddlers 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</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<b>§303.12 Early intervention services.</b> problems.		
<b>§303.12 Early intervention services.</b> (10) Psychological services includes— (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.	<b>§303.13 Early intervention services.</b> (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.	
<b>§303.12 Early intervention services.</b> (11) Service coordination services means assistance and services provided by a service coordinator to a child eligible under this part and the child’s family that are in addition to the functions and activities included under § 303.23.	<b>§303.13 Early intervention services.</b> (11) Service coordination services has the meaning given the term in §303.34.	
	<b>§303.13 Early intervention services.</b> (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.	The Department clarified “that establishing a separate definition of sign language and cued language services, which includes auditory/oral language and transliteration services, is consistent with section 632(4)(E)(iii) of the Act. Therefore, [the Department] has included in new §303.13(b)(12) a definition of the term that incorporates the language from proposed §303.13(b)(12)(iv).  Further, the Department noted “...we determined it was necessary to clarify and distinguish between

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>services that focus on teaching and interpretation. Thus, [the Department] has clarified that 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.”</p> <p>In addition, “Transliteration, in new §303.13(b)(12) (proposed §303.13(b)(12)(iv)), refers to the rendering of one language or mode of communication into another by sound such as voicing over difficult-to-understand speech in order to clarify the sounds, not the meaning. We agree that including amplification as an example of transliteration is appropriate and have added amplification as an example in the definition.”</p>
<p><b><u>§303.12 Early intervention services.</u></b>                      (12) Social work services includes—                      (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 child 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 child and parents;                      (iv) Working with those problems in a child’s and family’s living situation (home, community, and any center where early intervention services are provided) that affect the child’s maximum utilization of early intervention services; and                      (v) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.12 Early intervention services.</u></b> early intervention services.</p>	<p><b><u>§303.13 Early intervention services.</u></b> community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services.</p>	
<p><b><u>§303.12 Early intervention services.</u></b> (13) Special instruction includes— (i) The design of learning environments and activities that promote the child’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 child’s individualized family service plan; (iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and (iv) Working with the child to enhance the child’s development.</p>	<p><b><u>§303.13 Early intervention services.</u></b> (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.</p>	<p>The Department noted “States may refer to this early intervention service as ‘developmental instruction’ or use another term, provided that it meets the definition of special instruction in §303.13(b).”</p>
<p><b><u>§303.12 Early intervention services.</u></b> (14) Speech-language pathology includes— (i) Identification of children with communicative or oropharyngeal 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 communicative or oropharyngeal disorders and delays in development of communication skills; and (iii) Provision of services for the habilitation, rehabilitation, or prevention of communicative or</p>	<p><b><u>§303.13 Early intervention services.</u></b> (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</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.12 Early intervention services.</u></b>                      oropharyngeal disorders and delays in development of communication skills.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      language disorders and delays in development of communication skills.</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (15) Transportation and related costs includes the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child’s family to receive early intervention services.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	
<p><b><u>§303.12 Early intervention services.</u></b>                      (16) Vision services means—                      (i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;                      (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, independent living skills training, and additional training necessary to activate visual motor abilities.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	<p>The Department “clarified in the definition of <u>vision services</u> in new §303.13(b)(17) that evaluations and assessments of visual functioning include the diagnosis and appraisal of specific visual disorders, delays, and abilities that affect early childhood development. [The Department] also agrees that reference to independent living applies to older children and have deleted the reference...”</p>
<p><b><u>§303.12(e) Early intervention services.</u></b>                      (e) Qualified personnel. Early intervention services must be provided by qualified personnel, including—                      (1) Audiologists;                      (2) Family therapists;                      (3) Nurses;                      (4) Nutritionists;                      (5) Occupational therapists;                      (6) Orientation and mobility specialists;</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      (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</p>	<p>The Department notes “the lead agency would be responsible for referring families to ophthalmologists or optometrists and also would be responsible for paying for diagnostic services, as required under §303.13(b)(5).”</p> <p>Further, “The term ‘special educators’ consists of many distinct professions including teachers of children with hearing impairments and teachers of children with visual impairments. Therefore,</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.12(e) Early intervention services.</u></b>                      (7) Pediatricians and other physicians;                      (8) Physical therapists;                      (9) Psychologists;                      (10) Social workers;                      (11) Special educators; and                      (12) Speech and language pathologists.</p>	<p><b><u>§303.13 Early intervention services.</u></b>                      diagnostic and evaluation purposes.                      (7) Physical therapists.                      (8) Psychologists.                      (9) Registered dietitians.                      (10) Social workers.                      (11) Special educators, including teachers of children with hearing impairments (including deafness) and teachers of children with visual impairments (including blindness).                      (12) Speech and language pathologists.                      (13) Vision specialists, including ophthalmologists and optometrists.</p>	<p>including teachers of children with hearing impairments and teachers of children with visual impairments as examples of special educators in §303.13(c)(11) is appropriate and listing these terms separately is not necessary.”</p>
	<p><b><u>§303.13 Early intervention services.</u></b>                      (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.</p>	<p>The Department notes “Specifically, §303.13(d) states that “(t)he 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.” Further, §303.13(d) states that “[n]othing 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.”</p> <p>Further, “Section 303.13(d) clearly conveys that the early intervention services identified in §303.13(b) are not an exhaustive list and may include other developmental, corrective, or supportive services that meet the needs of a child as determined by the IFSP Team, provided that the services meet the criteria identified in §303.13(a) and the applicable State’s definition of early intervention services. [The Department] added the</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>previous definitions of nursing services and nutritional services to these final regulations because these definitions are defined in the current regulations and relied upon by the field. However, adding new definitions of additional services identified [by those who made comments], such as music therapy and respite care, is not necessary.”</p> <p>The Department does “not agree that requiring services identified in an IFSP to be based on proven methods or evidence-based practices is appropriate. Section 636(d)(4) of the Act provides that the IFSP include a statement of the specific early intervention services, based on peer-reviewed research, to the extent practicable, that are necessary to meet the unique needs of the infant or toddler with a disability and the family. Mirroring this standard, §303.344(d)(1) requires that each IFSP include a statement of the specific early intervention services based on peer-reviewed research (to the extent practicable) that are necessary to meet the unique needs for the child and the family to achieve the measurable results or outcomes identified in the IFSP.”</p>
<p><b>§303.12 Early intervention services.</b>                      NOTE: The lists of services in paragraph (d) and qualified personnel in paragraph (e) of this section are not exhaustive. Early intervention services may include such services as the provision of respite and other family support services. Qualified personnel may include such personnel as vision specialists, paraprofessionals, and parent-to-parent support personnel.</p>		

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.14 Elementary school.</u></b>                      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.</p>	
	<p><b><u>§303.15 Free appropriate public education.</u></b>                      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.</p>	
<p><b><u>§303.13 Health services.</u></b>                      (a) As used in this part, health services means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is receiving the other 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 eligible children that will need to be addressed</p>	<p><b><u>§303.16 Health services.</u></b>                      (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</p>	<p>The Department noted “it is the Department’s position that the exclusion of services related to the optimization (e.g., mapping) of surgically implanted medical devices, such as cochlear implants, from the definition of health services is consistent with the Act.”</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.13 Health services.</u></b> in the course of providing other early intervention services.</p>	<p><b><u>§303.16 Health services.</u></b> need to be addressed in the course of providing other early intervention services.</p>	
<p><b><u>§303.13 Health services.</u></b> (c) The term does not include the following: (1) Services that are— (i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or (ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose). (2) Devices necessary to control or treat a medical condition. (3) Medical-health services (such as immunizations and regular “well-baby” care) that are routinely recommended for all children.</p>	<p><b><u>§303.16 Health services.</u></b> (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</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.16 Health services.</u></b> are routinely recommended for all children.</p>	
<p><b><u>§303.13 Health services.</u></b> NOTE: The definition in this section distinguishes between the health services that are required under this part and the medical-health services that are not required. The IFSP requirements in subpart D of this part provide that, to the extent appropriate, these other medical-health services are to be included in the IFSP, along with the funding sources to be used in paying for the services or the steps that will be taken to secure the services through public or private sources. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part. (See § 303.344(e) and the note 3 following that section.)</p>		
	<p><b><u>§303.17 Homeless children.</u></b> 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.</p>	
<p><b><u>§303.14 IFSP.</u></b> As used in this part, IFSP means the individualized family service plan, as that term is defined in §303.340(b).</p>	<p><b><u>§303.20 Individualized family service plan.</u></b> 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);</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.20 Individualized family service plan.</u></b> and (d) Is developed in accordance with the IFSP procedures in §§303.342, 303.343, and 303.345.</p>	
<p><b><u>§303.15 Include; including.</u></b> As used in this part, 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.</p>	<p><b><u>§303.18 Include; including.</u></b> 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.</p>	
	<p><b><u>§303.19 Indian; Indian tribe.</u></b> (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.</p>	
<p><b><u>§303.16 Infants and toddlers with disabilities.</u></b> (a) As used in this part, infants and toddlers with disabilities means individuals from birth through age two who need early intervention services because they— (1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:</p>	<p><b><u>§303.21 Infant or toddler with a disability.</u></b> (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.</p>	<p>The Department noted “that even a mild sensory impairment may result in developmental delay” in explaining the change in the regulation.</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.16 Infants and toddlers with disabilities.</u></b>                      (i) Cognitive development.                      (ii) Physical development, including vision and hearing.                      (iii) Communication development.                      (iv) Social or emotional development.                      (v) Adaptive development; or                      (2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.</p>	<p><b><u>§303.21 Infant or toddler with a disability.</u></b>                      (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.</p>	
<p><b><u>§303.16 Infants and toddlers with disabilities.</u></b>                      (b) The term may also include, at a State’s discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.</p>	<p><b><u>§303.21 Infant or toddler with a disability.</u></b>                      (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).</p>	
	<p><b><u>§303.21 Infant or toddler with a disability.</u></b>                      (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,</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.21 Infant or toddler with a disability.</u></b>                      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.</p>	
<p><b><u>§303.16 Infants and toddlers with disabilities.</u></b>                      NOTE 1: The phrase “a diagnosed physical or mental condition that has a high probability of resulting in developmental delay,” as used in paragraph (a)(2) of this section, applies to a condition if it typically results in developmental delay. Examples of these conditions include chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments, including hearing and vision; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome; and severe attachment disorders.</p>		
<p><b><u>§303.16 Infants and toddlers with disabilities.</u></b>                      NOTE 2: With respect to paragraph (b) of this section, children who are at risk may be eligible under this part if a State elects to extend services to that population, even though they have not been identified as disabled. Under this provision, States have the authority to define who would be “at risk of having substantial developmental delays if early</p>		

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b>§303.16 Infants and toddlers with disabilities.</b> intervention services are not provided.” In defining the “at risk” population, States may include well-known biological and environmental factors that can be identified and that place infants and toddlers “at risk” for developmental delay. Commonly cited factors include low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and a history of abuse or neglect. It should be noted that “at risk” factors do not predict the presence of a barrier to development, but they may indicate children who are at higher risk of developmental delay than children without these problems.</p>		
	<p><b>§303.22 Lead agency.</b> 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.</p>	
	<p><b>§303.23 Local educational agency.</b> (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.</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.23 Local educational agency.</u></b>                      (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.</p>	
	<p><b><u>§303.23 Local educational agency.</u></b>                      (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</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.23 Local educational agency.</u></b> 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.</p>	
<p><b><u>§303.17 Multidisciplinary.</u></b> As used in this part, multidisciplinary means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities in Sec. 303.322 and development of the IFSP in Sec. 303.342.</p>	<p><b><u>§303.24 Multidisciplinary.</u></b> 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)).</p>	<p>The Department notes “With respect to IFSP Team meetings, [the Department] believes it is important for the parent to be able to meet not only with the service coordinator (who may have conducted the evaluation and assessments), but also with another individual (whether that person is the service provider or another evaluator) to obtain input from two or more individuals representing at least two disciplines and have revised §303.24 accordingly. ...also have added a reference to multidisciplinary in §303.340, regarding the general provisions that apply to IFSP development, review, and implementation. Thus, with these changes in §§303.24 and 303.340, the term multidisciplinary IFSP Team requires the involvement of two or more individuals from separate disciplines or professions, one of whom must be the service coordinator (consistent with §303.343(a)(1)(iv)).”</p> <p>“With respect to evaluation of the child and assessments of the child and family, §303.321(a) requires that all evaluations and assessments be conducted by qualified personnel. ...Therefore, if one individual completes an evaluation while representing two or more separate disciplines or professions, that individual would have to meet the definition of qualified personnel in each area in</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>which the individual is conducting the evaluation or assessment. Given these standards and requirements, [the Department] has retained the proposed definition to indicate that multidisciplinary means the involvement of two or more separate disciplines or professions and may include one individual who is qualified in more than one discipline or profession.”</p> <p>“Concerning adding a reference to transdisciplinary or interdisciplinary, the term multidisciplinary is consistent with section 635(a)(3) of the Act, regarding the requirement that the Part C statewide system must include a timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State. Transdisciplinary and interdisciplinary are specific team models. Multidisciplinary teams could be based on these models as long as the team meets the State’s definition of multidisciplinary and the State’s definition meets both statutory and regulatory requirements in this part. Thus, referencing specific team models in the regulatory definition of multidisciplinary is not necessary.”</p>
<p><b><u>§303.401 Definitions of consent, native language, and personally identifiable information.</u></b>                      (b) Native language, where used with reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of a child eligible under this part;                      (c) (3) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).</p>	<p><b><u>§303.25 Native language.</u></b>                      (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</p>	<p>The Department notes agreement with those providing comment “that requiring the native language to be used in all direct contact with a child, especially in providing early intervention services to an infant or toddler with a disability, may not be necessary or feasible in all circumstances.”</p> <p>“Thus, [the Department] has not included in these final regulations the requirement in proposed §303.25(a)(2) that native language be used in all</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b><u>§303.25 Native language.</u></b>                      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).</p>	<p>direct contact with the child. However, as recipients of Federal financial assistance, Part C lead agencies must comply with the requirements in Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs or activities receiving Federal financial assistance.”</p> <p>The Department added “new §303.25(a)(2) to provide that, for evaluations and assessments of a child, the native language of a child with limited English proficiency is the language normally used by the child if qualified personnel conducting the evaluation or assessment determine that this language is developmentally appropriate for the child given the child’s age and communication skills.”</p> <p>Further, “These changes do not change the long-standing native language requirements in §303.342, concerning IFSP meetings, §303.420, concerning obtaining parental consent, and §303.421, concerning prior written notice and procedural safeguards. As discussed in the Analysis of Comments and Changes for subpart E of this part, [the Department] has added a native language requirement in §303.404, concerning the general notice of confidentiality procedures provided to parents.”</p>
<p><b><u>§303.18 Natural environments.</u></b>                      As used in this part, natural environments means settings that are natural or normal for the child’s age peers who have no disabilities.</p>	<p><b><u>§303.26 Natural environments.</u></b>                      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.</p>	<p>The Department “added a reference to ‘community settings’ in §303.26 to ensure greater conformity with the statutory language, ... and to clarify that the term natural environments includes not only the home but community settings in which one finds same-aged children who do not have disabilities</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>(diagnosed conditions, developmental delays, or, at the State’s option, at-risk children). “</p> <p>Further, “The term “normal” was introduced into the regulations implementing the Individuals with Disabilities Education Act Amendments of 1991 and at that time, “normal” was commonly used and accepted. However, [the Department] agrees with [those who provided comments] that “normal” is less commonly used today and has replaced the word “normal” with the word “typical” in the definition of natural environments in §303.26.”</p> <p>“[The Department] appreciates [those who provided comments] request for clarification as to whether clinics, hospitals, or a service provider’s office may be considered the natural environment in cases when specialized instrumentation or equipment that cannot be transported to the home is needed. ... [the Department] does not believe that a clinic, hospital or service provider’s office is a natural environment for an infant or toddler without a disability; therefore, such a setting would not be natural for an infant or toddler with a disability. However, §303.344(d)(1) requires that the identification of the early intervention service needed, as well as the appropriate setting for providing each service to an infant or toddler with a disability, be individualized decisions made by the IFSP Team based on that child’s unique needs, family routines, and developmental outcomes. If a determination is made by the IFSP Team that, based on a review of all relevant information regarding the unique needs of the child, the child cannot satisfactorily achieve the identified early</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		intervention outcomes in natural environments, then services could be provided in another environment (e.g. clinic, hospital, service provider’s office). In such cases, a justification must be included in the IFSP, pursuant to §303.344(d)(1)(ii)(A).” Further, “Concerning the comment to add a reference to family routines and activities to the definition of natural environments, §303.26 allows for and supports providing services within family routines and activities.”
<p><b>§303.19 Parent.</b>                      (a) General. As used in this part, “parent” means--                      (1) A natural or adoptive parent of a child;                      (2) A guardian;                      (3) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child’s welfare); or                      (4) A surrogate parent who has been assigned in accordance with § 303.406.                      (b) Foster parent. Unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part C of the Act if—                      (1) The natural parents’ authority to make the decisions required of parents under the Act has been extinguished under State law; and                      (2) The foster parent—                      (i) Has an ongoing, long-term parental relationship with the child;                      (ii) Is willing to make the decisions required of parents under the Act; and                      (iii) Has no interest that would conflict with the interests of the child.</p>	<p><b>§303.27 Parent.</b>                      (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.</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><b>§303.27 Parent.</b></p> <p>(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 services decisions for the child.</p> <p>(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.</p>	<p>The Department noted “when the whereabouts of the biological parent are unknown (e.g., cases in which the parent is concerned about revealing his or her location due to safety concerns) or the biological parent is incarcerated, but the parent is attempting to act as the parent, the biological parent would be presumed to be the parent. However, when the whereabouts of the biological parent are unknown or the parent is incarcerated, and the biological parent is not attempting to act as the parent, an individual identified in §303.27, including the foster parent would be presumed to be the parent unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent.”</p> <p>The Department further noted, “The Act and the regulations are silent on how assertively a State, for purposes of obtaining consent, should seek out the biological parent of an infant or toddler who is undergoing an eligibility determination or who has been determined eligible to receive early intervention services under Part C of the Act. It is the Department’s position that these regulations should not prescribe the efforts, including specific procedures or timelines, that a State must make in its attempts to contact the biological parent(s). The procedures and timelines will vary depending on numerous factors, including how judicial orders or decrees are routinely handled in a State or locality, and are best left to the State and local officials to determine in light of State law and policy.”</p> <p>The Department also stated “The biological or adoptive parent would be presumed to be the parent</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		<p>under these regulations, unless a question is raised about their legal authority. There is nothing in the Act that requires the biological or adoptive parent to affirmatively assert their rights to be presumed to be the parent....unless a judicial order or decree identifies a specific person or persons to act as the parent of an infant or toddler, the biological or adoptive parent, when attempting to act as a parent, must be determined to be the “parent” for purposes of Part C of the Act and thus retains all the rights and responsibilities of a parent under the Act, including the right to receive written notice and attend meetings.”</p> <p>Furthermore, the Department clarified “a judge may appoint a person to make health-related decisions for an eligible infant or toddler without intending to limit the biological parent’s or adoptive parent’s role in early intervention decision-making. Therefore, [the Department] has revised paragraphs (b)(1) and (b)(2) to remove the reference to “health” decisions.”</p> <p>The Department also noted “For clarity and to eliminate redundancy, [the Department] has revised the definition of parent in §303.27(b)(2) to state 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. [The Department] has replaced ‘early intervention services or other services’ in proposed §303.27(b)(2) with ‘any services’ in new §303.27(b)(2). This change is necessary to make clear that if a public agency provides services other</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		than early intervention services to a family member of the child, that public agency may not serve as the parent for that child. This change strengthens protections against potential conflicts of interest by providing that a public agency that provides services to a child or any family member of that child cannot act as the parent under these regulations. ... which would preclude a public agency that provides child welfare services (including a child welfare case manager) to the child or any family member of the child from acting as the parent for that child.”
	<b>§303.28 Parent training and information center.</b> Parent training and information center means a center assisted under section 671 or 672 of the Act. (Authority: 20 U.S.C. 1401(25))	
<b>§303.401 Definitions of consent, native language, and personally identifiable information.</b> (c) Personally identifiable means that information includes-- (1) The name of the child, the child's parent, or other family member; (2) The address of the child; (3) A personal identifier, such as the child's or parent's social security number; or (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.	<b>§303.29 Personally identifiable information.</b> 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.	The Department stated “it is important to align the definition of personally identifiable information in these regulations with the definition of that same term in 34 CFR 99.3 under the Family Educational Rights and Privacy Act (FERPA) (in section 444 of the General Education Provisions Act). Examples of data that would be considered personally identifiable information under both the FERPA regulations in 34 CFR 99.3, as well as under Part C of the Act, include the child’s or parent’s name and social security number, date and place of birth, race, ethnicity, gender, physical description, and disability or level of developmental delay, because some of this information can also indirectly identify an individual depending on the combination of factors and level of detail released.”
<b>§303.20 Policies.</b> (a) As used in this part, policies means State statutes, regulations, Governor's orders, directives		

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.20 Policies.</u></b>                      by the lead agency, or other written documents that represent the State's position concerning any matter covered under this part.                      (b) State policies include--                      (1) A State's commitment to maintain the statewide system (see §. 303.140);                      (2) A State's eligibility criteria and procedures (see Sec. 303.300);                      (3) A statement that, consistent with §.303.520(b), provides that services under this part will be provided at no cost to parents, except where a system of payments is provided for under Federal or State law.                      (4) A State's standards for personnel who provide services to children eligible under this part (see §. 303.361);                      (5) A State's position and procedures related to contracting or making other arrangements with service providers under subpart F of this part; and                      (6) Other positions that the State has adopted related to implementing any of the other requirements under this part.</p>		
<p><b><u>§303.21 Public agency.</u></b>                      As used in this part, public agency includes the lead agency and any other political subdivision of the State that is responsible for providing early intervention services to children eligible under this part and their families.</p>	<p><b><u>§303.30 Public agency.</u></b>                      As used in this part, public agency means the lead agency and any other agency or political subdivision of the State.</p>	<p>The Department clarified the use of “the term public agency in this part to refer to public agencies that provide early intervention services as well as public agencies that provide other services or are sources of funding for early intervention services. Therefore, [the Department] revised the definition of public agency in §303.30 to make clear that the term includes the lead agency and any other agency or political subdivision of the State. ... also have clarified, in §303.12, that a public agency that is responsible for providing early intervention services to infants and toddlers with</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		disabilities under this part and their families is an EIS provider under §303.12.”
<p><b><u>§303.22 Qualified.</u></b> As used in this part, qualified means that a person has met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.</p>	<p><b><u>§303.31 Qualified personnel.</u></b> 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.</p>	<p>The Department noted “States have the authority to establish standards for licensure or certification and to determine on a case-by-case basis personnel who meet those standards. Therefore, an individual could only provide services in the area of occupational therapy if that individual meets State approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the individual is providing early intervention services. Paraprofessionals or assistants could assist in the provision of occupational therapy if they are appropriately trained and supervised in accordance with State law, regulation, or written policy to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities pursuant to §303.119(c).</p> <p>The term “area” as used in §303.31 refers to the specific domain in which the individual has qualified through State certification, licensing, registration, or other comparable requirements to provide early intervention services. [The Department] has added in §303.31 a reference to conducting evaluations or assessments to reflect the long-standing requirement ... that evaluations and assessments must be conducted by qualified personnel.”</p>
<p><b><u>§303.22 Qualified.</u></b> NOTE: These regulations contain the following provisions relating to a State’s responsibility to ensure that personnel are qualified to provide early intervention services:</p>		

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.22 Qualified.</u></b>                      1. Section 303.12(a)(4) provides that early intervention services must meet State standards. This provision implements a requirement that is similar to a longstanding provision under part B of the Act (i.e., that the State educational agency establish standards and ensure that those standards are currently met for all programs providing special education and related services).                      2. Section 303.12(a)(3)(ii) provides that early intervention services must be provided by qualified personnel.                      3. Section 303.361(b) requires statewide systems to have policies and procedures relating to personnel standards.</p>		
	<p><b><u>§303.32 Scientifically based research.</u></b>                      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.”</p>	<p>The Department noted “that adding a definition for scientifically based research to subpart A would be helpful because the definition will provide clarity and understanding when the term scientifically based research is used in this part.”</p>
	<p><b><u>§303.33 Secretary.</u></b>                      Secretary means the Secretary of Education.</p>	
<p><b><u>§303.23 (a) Service coordination (case management).</u></b>                      (a) General. (1) As used in this part, except in § 303.12(d)(11), service coordination means the activities carried out by a service coordinator to assist and enable a child eligible under this part and the child’s family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State’s early intervention program.</p>	<p><b><u>§303.34 Service coordination services (case management).</u></b>                      (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</p>	<p>The Department described “several structural and organizational revisions to improve clarity and readability... [the Department] clarified in these final regulations that the service coordinator is responsible for assisting parents of infants and toddlers with disabilities in obtaining access to needed early intervention services and other services identified in the IFSP. Additionally, for clarity, [the Department] has provided examples of activities that the service coordinator may engage</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.23 (a) Service coordination (case management).</u></b>                      (2) Each child eligible under this part and the child’s family must be provided with one service coordinator who is responsible for—                      (i) Coordinating all services across agency lines; and                      (ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.                      (3) Service coordination is an active, ongoing process that involves—                      (i) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan;                      (ii) Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided;                      (iii) Facilitating the timely delivery of available services; and                      (iv) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child’s eligibility.</p>	<p><b><u>§303.34 Service coordination services (case management).</u></b>                      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.</p>	<p>in when assisting parents in obtaining access to needed early intervention services and other services identified in the IFSP. ... [The Department] further clarified that service coordination services assist and enable an infant or toddler with a disability and the child’s family to receive the services and rights, including procedural safeguards, required under Part C of the Act. Such activities include: (1) the coordination of early intervention services and other services that the child needs or is being provided; (2) conducting referral and other activities; (3) ensuring the timely provision of services; and (4) conducting follow-up activities to determine that appropriate Part C services are being provided.”</p>
<p><b><u>§303.23(b) Service coordination (case management).</u></b>                      (b) Specific service coordination activities. Service coordination activities include—                      (1) Coordinating the performance of evaluations and assessments;                      (2) Facilitating and participating in the development, review, and evaluation of individualized family service plans;</p>	<p><b><u>§303.34 Service coordination services.</u></b>                      (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</p>	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.23(b) Service coordination (case management).</u></b>                      (3) Assisting families in identifying available service providers;                      (4) Coordinating and monitoring the delivery of available services;                      (5) Informing families of the availability of advocacy services;                      (6) Coordinating with medical and health providers; and                      (7) Facilitating the development of a transition plan to preschool services, if appropriate.</p>	<p><b><u>§303.34 Service coordination services.</u></b>                      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.</p>	
<p><b><u>§ 303.23(c) Service coordination (case management).</u></b>                      (c) Employment and assignment of service coordinators.                      (1) Service coordinators may be employed or assigned in any way that is permitted under State law, so long as it is consistent with the requirements of this part.</p>		

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.23(c) Service coordination (case management).</u></b>                      (2) A State’s policies and procedures for implementing the statewide system of early intervention services must be designed and implemented to ensure that service coordinators are able to effectively carry out on an interagency basis the functions and services listed under paragraphs (a) and (b) of this section.</p>		
<p><b><u>§303.23(d) Service coordination (case management).</u></b>                      (d) Qualifications of service coordinators. Service coordinators must be persons who, consistent with § 303.344(g), have demonstrated knowledge and understanding about—                      (1) Infants and toddlers who are eligible under this part;                      (2) Part C of the Act and the regulations in this part; and                      (3) The nature and scope of services available under the State’s early intervention program, the system of payments for services in the State, and other pertinent information.</p>		
	<p><b><u>§303.34 Service coordination services (case management).</u></b>                      (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</p>	<p>The Department notes, “The legislative history of the 1991 amendments to the Act indicates that use of the term ‘service coordination’ is not intended to affect authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to ‘case management’ services. See H.R. Rep. No. 198, 102d Cong., 1st Sess. 12 (1991); S. Rep. No. 84, 102d Cong., 1st Sess. 20 (1991). Accordingly, this paragraph is intended to reflect the intent of Congress.”</p>

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<b><u>§303.34 Service coordination services (case management).</u></b> provisions).	
<b><u>§303.23(d) Service coordination (case management).</u></b> NOTE 1: If States have existing service coordination systems, the States may use or adapt those systems, so long as they are consistent with the requirements of this part.		
<b><u>§303.23(d) Service coordination (case management).</u></b> NOTE 2: The legislative history of the 1991 amendments to the Act indicates that the use of the term “service coordination” was not intended to affect the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to “case management” services.		
	<b><u>§303.36 State educational agency.</u></b> (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.	
<b><u>§303.24 State.</u></b> Except as provided in § 303.200(b)(3), State means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the	<b><u>§303.35 State.</u></b> 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	

SUBPART A- GENERAL		
1999 Part C Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><b><u>§303.24 State.</u></b> jurisdictions of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.</p>	<p><b><u>§303.35 State.</u></b> outlying areas and jurisdictions of Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.</p>	
	<p><b><u>§303.37 Ward of the State.</u></b> (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.</p>	
<p><b><u>§303.25 EDGAR definitions that apply.</u></b> The following terms used in this part are defined in 34 CFR 77.1: Applicant Award Contract Department EDGAR Fiscal year Grant Grantee Grant period Private Public Secretary</p>		