ARTICLE 3.1. FIRST STEPS EARLY INTERVENTION SYSTEM

Rule 1. Definitions

470 IAC 3.1-1-1 Applicability
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. The definitions in this rule apply throughout this article. *(Division of Family and Children; 470 IAC 3.1-1-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-2 "Act" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. "Act" means the federal Individuals with Disabilities Education Act, codified at 20 U.S.C. 1400 et seq. *(Division of Family and Children; 470 IAC 3.1-1-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-3 "Assessment" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. "Assessment" means ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify the following:
(1) The child's unique strengths and needs, and the services appropriate to meet those needs.
(2) The resources, priorities, and concerns of the family, and identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of its infant or toddler with a disability.
(Division of Family and Children; 470 IAC 3.1-1-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-4 "Child" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) "Child" refers to an infant or toddler from birth through two (2) years of age.
(b) As used in this article, "child" includes the singular, as well as the plural, form of the noun. *(Division of Family and Children; 470 IAC 3.1-1-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-5 "Child find" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. "Child find" means strategies and activities, including awareness activities, conducted for the purpose of bringing children into the early intervention system so that individual eligibility may be determined and potential needs for early intervention services can be identified. *(Division of Family and Children; 470 IAC 3.1-1-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-6 "Child find system" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 6. "Child find system" means a coordinated, community system for identifying, locating, and evaluating children who are eligible for early intervention services. The system includes a public awareness program, a procedure for referring a child to the appropriate system point of entry for assessment and early intervention services, where appropriate, and an effective method to determine which children are receiving needed early intervention services and which children are not receiving those services. *(Division of Family and Children; 470 IAC 3.1-1-6; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2250; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-7 "Consent" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. "Consent" includes all of the following:

(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.

(3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. *(Division of Family and Children; 470 IAC 3.1-1-7; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-8 "Days" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 8. "Days" means calendar days. *(Division of Family and Children; 470 IAC 3.1-1-8; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-9 "Disclosure" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 9. "Disclosure" means to permit access, or to release, transfer, or otherwise communicate the information contained in early intervention records, including personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means. *(Division of Family and Children; 470 IAC 3.1-1-9; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-10 "Division" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 10. "Division" means the division of family and children. *(Division of Family and Children; 470 IAC 3.1-1-10; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1328; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-11 "Early intervention services" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 11. "Early intervention services" means developmental services that:

(1) are designed to meet:

(A) the developmental needs of each child eligible for services through the early intervention system; and
(B) the needs of the family related to enhancing the child's development;
(2) are selected in collaboration with the child's parents;
(3) are provided:
(A) under public supervision;
(B) by qualified personnel as described in section 26 of this rule; and
(C) in conformity with an individualized family service plan;
(4) meet state and federal laws, regulations, and rules; and
(5) are provided in natural environments, to the maximum extent appropriate to the needs of the child, including the home and community settings in which children without disabilities participate.
(Division of Family and Children; 470 IAC 3.1-1-11; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2250; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-12 "Early intervention system" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 12. "Early intervention system" means the total effort in the state that is established to meet the needs of children eligible for early intervention services and their families, including the coordination of all available federal, state, local, and private resources available to provide early intervention services within the state. *(Division of Family and Children; 470 IAC 3.1-1-12; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-13 "Evaluation" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 13. "Evaluation" includes the procedures used by appropriate, qualified personnel, as described in section 26 of this rule, to determine a child's initial and continuing eligibility for early intervention services, including determining the status of the child in each of the following developmental areas:
(1) Cognitive development.
(2) Physical development, including vision and hearing.
(3) Communication development.
(4) Social or emotional development.
(5) Adaptive development.
(Division of Family and Children; 470 IAC 3.1-1-13; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-13.5 "Foster parent" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 13.5. "Foster parent" means a person or persons who meet the definition found at 470 IAC 3-1-1 and:
(1) have an ongoing, long term parental relationship with the child;
(2) are willing to make the decisions required of parents; and
(3) have no interest that would conflict with the interests of the child.
(Division of Family and Children; 470 IAC 3.1-1-13.5; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2465; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-14 "ICC" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15-7

Sec. 14. "ICC" means the state interagency coordinating council established pursuant to IC 12-17-15-7. *(Division of Family and Children; 470 IAC 3.1-1-14; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-15 "IFSP" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 15. "IFSP" means the individualized family service plan, a written plan for providing early intervention services to a child eligible for early intervention services and the child's family. *(Division of Family and Children; 470 IAC 3.1-1-15; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-16 "Infants and toddlers with disabilities" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 16. "Infants and toddlers with disabilities" means individuals from birth through two (2) years of age who are eligible for early intervention services. *(Division of Family and Children; 470 IAC 3.1-1-16; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-17 "Informed clinical opinion" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 17. "Informed clinical opinion" means a decision made by appropriate, qualified personnel, as described in section 26 of this rule, regarding the developmental status of a child, which is utilized for purposes of eligibility determination, assessment of service needs, and development of an IFSP, and which is based upon observation, interviews, or other appropriate techniques. *(Division of Family and Children; 470 IAC 3.1-1-17; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2250; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-18 "LPCC" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 18. "LPCC" means the local planning and coordinating council, a county-based planning and coordination group organized for the purpose of implementing the early intervention system as required by 20 U.S.C. 1435 and 34 CFR 303. *(Division of Family and Children; 470 IAC 3.1-1-18; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-19 "Multidisciplinary" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 19. "Multidisciplinary" means the involvement of two (2) or more different disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities, and development of the IFSP. *(Division of Family and Children; 470 IAC 3.1-1-19; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1329; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-20 "Natural environments" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 20. "Natural environments" means settings that are natural or normal for the child's age peers who have no disability. *(Division of Family and Children; 470 IAC 3.1-1-20; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-21 "Parent" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 21. (a) "Parent" means a parent, a guardian, a person acting as a parent of a child, a foster parent, or a surrogate parent who has been appointed in accordance with 470 IAC 3.1-13-5. The term does not include the state if the child is a ward of the state.

(b) The term includes the singular, as well as the plural, form of the noun. *(Division of Family and Children; 470 IAC 3.1-1-21; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2465; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-22 "Part B" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 22. "Part B" means Subchapter II of the Act, codified at 20 U.S.C. 1411 et seq., which provides federal assistance to states for the education of children with disabilities. *(Division of Family and Children; 470 IAC 3.1-1-22; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-23 "Part C" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 23. "Part C" means Subchapter III of the Act, codified at 20 U.S.C. 1431 et seq., which provides federal assistance to states for infants and toddlers with disabilities. *(Division of Family and Children; 470 IAC 3.1-1-23; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-24 "Participating agency" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 24. "Participating agency" means any state agency, SPOE, service provider, or other person or entity, who or which collects, maintains, or uses personally identifiable information in implementing the early intervention system, or from whom or which information is obtained in order to implement the early intervention system. *(Division of Family and Children; 470 IAC 3.1-1-24; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-25 "Primary referral sources" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 25. "Primary referral sources" means individuals who, or organizations which, may refer children for early intervention services, including, but not limited to, the following:

(1) Hospitals, including prenatal and postnatal care facilities.
(2) Physicians.
(3) Parents.
(4) Day care programs.
(5) Local educational agencies.
(6) Public health facilities.
(7) Other social service agencies.
(8) Other health care providers.
(Division of Family and Children; 470 IAC 3.1-1-25; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-26 "Qualified personnel" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 26. "Qualified personnel" includes, but is not limited to, the following:
(1) Audiologists.
(2) Family therapists.
(3) Nurses.
(4) Nutritionists.
(5) Occupational therapists.
(6) Orientation and mobility specialists.
(7) Pediatricians and other physicians.
(8) Physical therapists.
(9) Psychologists.
(10) Service coordinator.
(11) Social workers.
(12) Special educators or developmental therapists.
(13) Speech and language pathologists.
(14) Vision specialists.
(15) Parent-to-parent support personnel.
(Division of Family and Children; 470 IAC 3.1-1-26; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-1-27 "Service coordination" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 27. "Service coordination" means the activities carried out by a person or entity to assist and enable a child eligible for early intervention services, and the child's family, to receive the rights, procedural safeguards, and services that are authorized to be provided through the early intervention system. *(Division of Family and Children; 470 IAC 3.1-1-27; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1330; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-28 "Service provider" defined
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 28. "Service provider" means a person, or a public or private entity, selected by the family to provide early intervention services for an eligible child and the child's family pursuant to an IFSP. *(Division of Family and Children; 470 IAC 3.1-1-28; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1331; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-28.5 "SPOE" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 28.5. "SPOE" means the system point of entry, that serves as local lead agency, and is the single point of contact in helping parents obtain services and assistance for infants or toddlers with disabilities as defined in section 16 of this rule. *(Division of Family and Children; 470 IAC 3.1-1-28.5; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2251; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-29 "Surrogate parent" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 29. "Surrogate parent" means an individual appointed in accordance with 470 IAC 3.1-13-5 to take the place of a parent for the purposes of this article, when no parent can be identified or located, or when the child is a ward of the state. *(Division of Family and Children; 470 IAC 3.1-1-29; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1331; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-1-30 "Transition" defined

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 30. "Transition" refers to the transfer of a child to another service type or location within the Part C eligibility period as well as transition to other services including, but not limited to, the Part B/special education program, or to any environment or combination of environments determined to be appropriate for the ongoing developmental growth of the child at or prior to three (3) years of age. *(Division of Family and Children; 470 IAC 3.1-1-30; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1331; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2252; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

Rule 2. State Administration

470 IAC 3.1-2-1 State lead agency

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) The division is the state lead agency responsible for ensuring the provision of early intervention services to eligible infants and toddlers with disabilities and their families consistent with 20 U.S.C. 1431 et seq., and 34 CFR 303.

(b) The division is responsible for ensuring that the minimum components of a statewide system of early intervention services for eligible infants and toddlers and their families, as required by the United States Department of Education, is established and maintained in the state. The minimum components, identified in 20 U.S.C. 1435 and 34 CFR 303, include the following:

(1) A state definition of developmentally delayed.
(2) A central directory of information relating to early intervention services, resources, experts, and research and demonstration projects available in the state.
(3) Timetables for serving eligible infants and toddlers and their families.
(4) A public awareness program.
(5) A comprehensive child find system.
(6) Timely, comprehensive, and multidisciplinary evaluation and assessment procedures, and a family-directed identification of the needs of each family of such an infant or toddler to appropriately assist in the development of the infant or toddler.
(7) Development, review, and evaluation of IFSPs and service coordination.
(8) A comprehensive system of personnel development.
(9) Development and implementation of personnel standards.

(10) Development and implementation of procedural safeguards.
(11) General administration, supervision, and monitoring of the early intervention system.
(12) Procedures that are widely disseminated for resolving complaints.
(13) Policies and procedures related to financial matters, including the following:
(A) The identification and coordination of all resources in the state available for early intervention services.
(B) The timely reimbursement of funds provided by the United States Department of Education for early intervention services.
(C) The assignment of financial responsibility among participating agencies.
(14) Interagency agreements for resolution of disputes.
(15) Policies for contracting or otherwise arranging for services.
(16) Data collection on the numbers of infants and toddlers with disabilities and their families in the state.
(Division of Family and Children; 470 IAC 3.1-2-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1331; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2252; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-2-2 Interagency coordinating council
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15; IC 20-1-6; IC 27-1-1-1

Sec. 2. (a) Members of the ICC shall be appointed by the governor. To the extent possible, the membership of the ICC shall reasonably represent the population and geographic diversity of Indiana.
(b) The governor shall designate a member of the ICC to serve as the chairperson of the ICC, or require the ICC to designate a chairperson from within its membership. A member of the ICC who is a representative of the division may not serve as chairman of the ICC. A chairman may be reappointed for succeeding terms.
(c) The ICC shall be composed as follows:
(1) At least twenty percent (20%) of the members must be parents, including minority parents, of infants or toddlers with disabilities or children who are twelve (12) years of age or younger who have knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one (1) member must be a parent of an infant or toddler with a disability or a child with a disability who is six (6) years of age or younger.
(2) At least twenty percent (20%) of the members must be public or private providers of early intervention services.
(3) At least one (1) member must be a member of the general assembly.
(4) Each of the state agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families must be represented by at least one (1) member. These members must have sufficient authority to engage in policy planning and implementation on behalf of the state agency the member represents.
(5) At least one (1) member must be involved in personnel preparation.
(6) At least one (1) member must represent a state educational agency responsible for preschool services to children with disabilities, and must have sufficient authority to engage in policy planning and implementation on behalf of the agency.
(7) At least one (1) member must represent the department of insurance created under IC 27-1-1-1, especially in the area of health insurance.
(8) At least one (1) member must represent a Head Start agency or program in the state.
(9) At least one (1) member must represent a state agency responsible for child care.
(10) The ICC may include other members selected by the governor.
(d) Members shall be appointed for a term of three (3) years and may be reappointed for succeeding terms. Vacancies on the ICC shall be filled by the governor.
(e) The governor or the chairman of the ICC may call a meeting of the ICC. The ICC shall meet at least quarterly.
(f) Meetings of the ICC must:
(1) be publicly announced sufficiently in advance of the meetings to ensure attendance by all interested parties; and
(2) be open and accessible to the public in accordance with federal and state laws, regulations, and rules.
(g) Interpreters for persons who are deaf, and other necessary services, must be provided at ICC meetings, both for ICC members and participants. The ICC may use Part C funds to pay for those services.
(h) No member of the ICC may cast a vote on any matter that would provide direct financial benefit to that member, his or

her family, or place of employment, or otherwise give the appearance of a conflict of interest.

(i) The ICC may prepare and approve a budget using funds provided through the state infants and toddlers with disabilities program to do the following:

(1) Conduct hearings and forums.

(2) Reimburse members of the ICC for reasonable and necessary expenses for attending ICC meetings and performing ICC duties, including child care for the members who are representatives of parents.

(3) Pay compensation to a member of the ICC, if the member is not employed or is required to forfeit wages from other employment when absent from the other employment due to the performance of ICC business.

(4) Hire the staff and obtain services that are necessary to carry out the ICC's functions.

(j) The ICC shall do the following:

(1) Advise and assist the division in its responsibilities for the development and implementation of the early intervention system, particularly including the following:

(A) Identification of the sources of fiscal and other support for the early intervention system.

(B) Use of existing resources to the full extent in implementing the early intervention system.

(C) Promotion of the interagency agreements described in section 3 of this rule.

(2) Advise and assist the division in the preparation of applications and amendments required under 20 U.S.C. 1431 through 20 U.S.C. 1445.

(3) Advise and assist the Indiana state board of education regarding the transition of toddlers with disabilities to preschool special education services under IC 20-1-6, and the provision of appropriate services for children who are less than six (6) years of age.

(4) Prepare and submit an annual report to the governor, the general assembly, and the United States Secretary of Education, by January 1 of each year, concerning the status of early intervention programs for infants and toddlers with disabilities and their families.

(5) Assist the division in achieving the full participation, coordination, and cooperation of all appropriate state agencies.

(6) Make recommendations to participating agencies concerning improvements to each agency's delivery of services.

(7) Periodically request from the agencies responsible for providing early intervention services for infants and toddlers with disabilities and preschool special education programs, written reports concerning the implementation of each agency's respective programs.

(8) Assist the division in the effective implementation of the early intervention system by establishing a process that includes the following:

(A) Seeking information from service providers, service coordinators, parents, and others about any federal, state, or local policies that impede timely service delivery.

(B) Taking steps to ensure that any policy problems are identified and resolved.

(9) To the extent appropriate, assist the division in the resolution of disputes.

(10) With the approval of the state budget agency, assign financial responsibility to the appropriate participating state agency.

(11) Otherwise comply with 20 U.S.C. 1441, regarding the responsibilities of the ICC.

(Division of Family and Children; 470 IAC 3.1-2-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1331; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2252; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-2-3 Interagency agreements

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) The division is responsible for entering into formal interagency agreements with other state agencies involved in the early intervention system.

(b) Each agreement must:

(1) define the financial responsibility of the state agencies involved in the early intervention system for paying for early intervention services;

(2) include procedures for achieving a timely resolution of intra-agency and interagency disputes about payments for a given service, or disputes about other matters related to the state's early intervention system, in accordance with 34 CFR 303.523(c);

and

(3) include any additional components necessary to ensure effective cooperation and coordination among the state agencies involved in the early intervention system.

(Division of Family and Children; 470 IAC 3.1-2-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1333; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-2-4 Central directory

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) The division shall be responsible for the development and implementation of a central directory of information about the following:

(1) Local resource and referral entities in the state.

(2) Public and private early intervention services, resources, and experts available in the state.

(3) Research and demonstration projects being conducted in the state.

(4) Professional and other groups that provide assistance to children eligible for early intervention services and their families.

(b) The information to be included in the central directory must be in sufficient detail to:

(1) ensure that the general public will be able to determine the nature and scope of the services and assistance available from each of the sources listed in the directory; and

(2) enable the parent of a child eligible for early intervention services to contact, by telephone or letter, any of the sources listed in the directory.

(c) The central directory must be:

(1) updated at least annually; and

(2) accessible to the general public.

(d) The division shall arrange for copies of the directory to be available in the following areas:

(1) Each county of the state.

(2) In places and in a manner that ensure accessibility by persons with disabilities.

(Division of Family and Children; 470 IAC 3.1-2-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1333; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-2-5 Timetables for serving eligible children

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. Appropriate early intervention services shall be available to all eligible infants and toddlers with disabilities in the state and their families on the effective date of this article. *(Division of Family and Children; 470 IAC 3.1-2-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1333; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-2-6 Public awareness

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 6. (a) The division shall maintain a public awareness program that:

(1) focuses on the early identification of children who are eligible to receive early intervention services;

(2) includes the preparation and dissemination to all primary referral sources, especially hospitals and physicians, of information materials for parents on the availability of early intervention services; and

(3) includes procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

(b) The public awareness program must provide for informing the public about the following:

(1) The state's early intervention system.

(2) The child find system, including the following:
(A) The purpose and scope of the system.
(B) How to make referrals.
(C) How to gain access to a comprehensive, multidisciplinary evaluation, and other early intervention services.
(3) Local resource and referral entities in the state.
(4) The central directory.
(5) The local planning and coordinating council.
(Division of Family and Children; 470 IAC 3.1-2-6; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1333; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2254; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-2-7 Supervision and monitoring
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. (a) The division is responsible for the following:
(1) The general administration and supervision of early intervention services and activities receiving assistance through the United States Department of Education for early intervention services.
(2) The monitoring of early intervention services and activities used by the state to carry out the early intervention system, whether or not those programs or activities receive assistance from the United States Department of Education for early intervention services, to ensure that the state complies with the statutes and regulations directing the early intervention system, including 20 U.S.C. 1431 et seq., 34 CFR 303, IC 12-17-15, and this article.
(b) In fulfilling its supervision and monitoring responsibilities, the division shall adopt and use proper methods of administering the early intervention system, including the following:
(1) Monitoring agencies, institutions, and organizations participating in the early intervention system.
(2) Enforcing any obligations imposed on participating agencies by 20 U.S.C. 1431 et seq., 34 CFR 303, IC 12-17-15, and this article.
(3) Providing technical assistance, if necessary, to participating agencies.
(4) Monitoring service providers for corrections of identified deficiencies.
(Division of Family and Children; 470 IAC 3.1-2-7; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1333; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2254; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 3. Local Administration

470 IAC 3.1-3-1 Local planning and coordinating council
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) The LPCC organized in each county shall serve as a coordinating body, advising and assisting the division in its implementation and monitoring of the early intervention system. The LPCC shall have a formally defined relationship with the local step ahead council.
(b) The LPCC shall consist of members who reasonably represent the population of the county where it is located. LPCC members shall include, at a minimum, the following:
(1) Two (2) parents of children with disabilities.
(2) One (1) health or medical representative.
(3) One (1) educational representative.
(4) One (1) social services representative.
(5) One (1) early intervention service provider.
(6) One (1) Head Start representative.
(7) One (1) child care representative.
(c) The LPCC shall advise and assist the division in the division's responsibility to ensure the following:

(1) Parents, representatives of entities that refer, evaluate, or provide services to young children and their families in the community, and other interested persons are involved in the planning, development, operation, and evaluation of the early intervention service system in the county represented by the LPCC.
(2) A comprehensive child find system is established, including activities to make the public aware of the early intervention system, and development of a formal system of communication and coordination among pertinent entities, especially hospitals and physicians, operating in the county that may have contact with eligible children and their families.
(3) An intake coordinator is appointed for every child referred for evaluation.
(4) A parent needing or seeking early intervention services for a child is informed orally and in writing about:
(A) the purposes of the early intervention system;
(B) the processes available to seek information and services; and
(C) the procedural safeguards afforded by the system.
(5) The parent is a member of the multidisciplinary team responsible for the development and implementation of the IFSP.
(6) Informed written consent of the child's parent is obtained before the initial eligibility determination for needed services and assessments are conducted.
(7) The providers of early intervention services are identified on the county service matrix.
(8) Informed written consent of a child's parent is obtained prior to the provision of early intervention services for the child and family to implement the IFSP.
(9) The confidentiality of personally identifiable information about a child, a parent of the child, or other member of the child's family is maintained.
(10) The need of a child for a surrogate parent is determined, and a surrogate parent is assigned in accordance with 470 IAC 3.1-13-5 if the child needs one.
(11) An early intervention record is maintained for each child at the SPOE, including the following:
(A) The child's IFSP.
(B) Information regarding all required early intervention services.
(C) Other individualized early intervention services needed or received by the child.
(D) Parental consent documents.
(E) Other relevant documents pertaining to the child or the child's family.
This record is made available at the SPOE for inspection by the child's parent, and representatives of the division, the office of the secretary of family and social services, and the United States government.
(12) Local early intervention documents are maintained by the LPCC, including the following:
(A) Interagency agreements regarding transitions and referrals.
(B) Records of how funds for the LPCC are budgeted and expended.
These documents shall be made available for inspection by representatives of the division, the office of the secretary of family and social services, and the United States government.
(13) The division is provided, upon request, the following:
(A) Financial and other written reports.
(B) Information regarding the use of funds.
(C) Systems request for funds (RFF).
(D) Any other information required to describe and assess the operation of the local early intervention system.
(Division of Family and Children; 470 IAC 3.1-3-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1334; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2254; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-3-2 System coordination
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. The LPCC shall recommend to the division, a recipient or recipients of funding to be used to support coordination of the early intervention system at the county level and activities of the SPOE. Funds provided by the United States Department of Education, pursuant to Part C of the Act, shall be used to plan, develop, and implement a county system of early intervention services for eligible infants and toddlers and their families. *(Division of Family and Children; 470 IAC 3.1-3-2; filed Jan 29, 1996, 5:15 p.m.:*

19 IR 1335; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2255; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-3-3 Supplanting

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) The funds provided by the United States Department of Education for early intervention services pursuant to Part C of the Act shall be used to supplement and increase the level of state and local funds expended for eligible infants and toddlers with disabilities and their families, and in no case may the funds supplant state and local funds available for early intervention services.

(b) The total amount of state and local funds budgeted for expenditures for early intervention services must be at least equal to the total amount of state and local funds actually expended for early intervention services in the most recent preceding fiscal year. Allowance may be made for the following:

(1) Decreases in the number of children who are eligible to receive early intervention services.

(2) Unusually large amounts of funds expended for long term purposes, such as the acquisition of equipment and the construction of facilities.

(3) Loss of funds beyond the control of a participating agency.

(Division of Family and Children; 470 IAC 3.1-3-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1335; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2255; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-3-3.5 SPOE responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3.5. (a) SPOE serves as the local lead agency and shall be responsible for providing one (1) point or location within each service area in the state where referrals will be received for children eligible for early intervention services.

(b) SPOE shall provide the following:

(1) Electronic linkage between the service area and the central reimbursement office to ensure that:

(A) eligibility determinations;

(B) enrollment; and

(C) authorizations;

for IFSP services occur without delay.

(2) Access for children and their families to programs and services to meet:

(A) the child's developmental needs; and

(B) the family's needs to assist their child in meeting his or her needs.

(3) Implementation of the provisions of Part C of the Act in a family-centered, equitable, consistent, and culturally competent manner.

(4) Knowledge of all providers available to serve eligible children and assist families in the provider selection process.

(c) The SPOE will perform the following functions:

(1) Receive referrals.

(2) Conduct and complete the intake process.

(3) Develop the early intervention record for each child referred to the SPOE, whether or not the child was determined to be eligible.

(4) Facilitate the initial IFSP team meeting.

(5) Complete the initial IFSP.

(d) Each SPOE shall be:

(1) handicapped accessible; and

(2) available to the general community fifty-two (52) weeks a year during normal and routine business hours.

(Division of Family and Children; 470 IAC 3.1-3-3.5; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2256; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-3-4 Service provider responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) The service provider shall be responsible for the following:

(1) Maintaining and providing to:

(A) the division;

(B) the office of the secretary of family and social services; and

(C) the United States Department of Education;

documents supporting the expenditure of all funds received by the service provider for early intervention services.

(2) Maintaining effective control over, and accountability for, all funds received by the service provider to support the early intervention system and early intervention services, including ensuring that all funding provided for support of the early intervention system or early intervention services is used solely for authorized purposes, in accordance with state and federal laws, regulations, and rules.

(3) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of early intervention services.

(4) Training parents and others regarding the provision of early intervention services.

(5) 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 IFSP.

(b) Documents supporting the expenditure of funds by a service provider must be of sufficient detail to show the exact nature and cost of the expenditures for each account.

(c) Records must be maintained by a service provider in such a manner as to permit preparation of required financial reports and to indicate that the funds were used by the service provider in accordance with state and federal laws, regulations, and rules.

(d) The service provider shall keep such records and maintain and provide such information as may be required by the United States Department of Education, the office of the secretary of family and social services, and the division. The service provider shall allow access to any records and information prepared and maintained by the service provider by authorized representatives of the United States government, the office of the secretary of family and social services, and the division. *(Division of Family and Children; 470 IAC 3.1-3-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1335; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2256; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-3-5 Data collection

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15; IC 20-1-6

Sec. 5. (a) The LPCC and all participating agencies shall advise and assist the division in its collection of data regarding the following:

(1) The number of infants and toddlers with disabilities, by race and ethnicity, and their families in the state in need of appropriate early intervention services.

(2) The number of infants and toddlers with disabilities, by race and ethnicity, and their families provided early intervention services.

(3) The types of services provided.

(4) The number of infants and toddlers with disabilities by race and ethnicity, who, from birth through age two (2), stopped receiving early intervention services because of the following:

(A) program completion; or

(B) other reasons.

(5) Other information required by the United States Department of Education, the office of the secretary of family and social services, and the division.

(b) Data collection for reporting infants and toddlers with disabilities and their families receiving early intervention services shall be conducted in coordination with the annual child count conducted by the Indiana state board of education under 511 IAC 7-16-1 *[511 IAC 7-16 was repealed filed May 22, 2000, 8:52 a.m.: 23 IR 2497. See 511 IAC 7-31.]. (Division of Family and*

Children; 470 IAC 3.1-3-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 4. Early Intervention Services

470 IAC 3.1-4-1 Required services

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. The services which must be provided to eligible infants and toddlers with disabilities and their families for which no fees may be charged to the parents include the following:

(1) Child find.
(2) Evaluation and assessment.
(3) Service coordination.
(4) Administrative and coordination activities related to the development, review, and evaluation of IFSPs, implementation of procedural safeguards, and the other required components of the statewide system of early intervention services identified in 470 IAC 3.1-2-1(b).

(Division of Family and Children; 470 IAC 3.1-4-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-4-2 Individualized services

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) Individualized services are those early intervention services determined through the evaluation and assessment process to be needed by an eligible child and required to be provided to the child and the child's family in an IFSP. Individualized services, as defined in 34 CFR 303.12(d), include the following:

(1) Assistive technology devices and services.
(2) Audiology.
(3) Family training, counseling, and home visits.
(4) Health services.
(5) Medical services only for diagnostic or evaluation purposes.
(6) Nursing services.
(7) Nutrition services.
(8) Occupational therapy.
(9) Physical therapy.
(10) Psychological services.
(11) Service coordination services.
(12) Social work services.
(13) Special instruction.
(14) Speech-language pathology.
(15) Transportation and related costs.
(16) Vision services.

(b) The services identified in this section are not exhaustive and may include other services identified in a child's IFSP, such as respite care and other family support services. *(Division of Family and Children; 470 IAC 3.1-4-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-4-3 Natural environment

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, as that term is defined in 470 IAC 3.1-1-20, including the home and community settings in which children without disabilities participate.

(b) Only when early intervention services cannot be achieved satisfactorily for the child in a natural environment shall the services be provided in a setting other than a natural environment. *(Division of Family and Children; 470 IAC 3.1-4-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-4-4 Availability of services

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. The division shall ensure required and individualized services are available throughout the calendar year in accordance with the IFSP for an eligible child and the child's family. *(Division of Family and Children; 470 IAC 3.1-4-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1336; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-4-5 Responsibility and accountability

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. Each service provider that has a direct role in the provision of early intervention services is responsible for making a good faith effort to assist each eligible child in achieving the outcomes in the child's IFSP. *(Division of Family and Children; 470 IAC 3.1-4-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

Rule 5. Personnel Standards

470 IAC 3.1-5-1 Required standards

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) As used in this rule, "state approved or recognized certification, licensing, registration, or other comparable requirements" means the requirements that the state general assembly has enacted, or has authorized a state agency to promulgate through rules, to establish the entry-level standards for employment in a specific profession or discipline in the state.

(b) Early intervention services shall be provided by personnel who meet the highest entry-level academic degree needed for any 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. *(Division of Family and Children; 470 IAC 3.1-5-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-5-2 Policies and procedures

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. The LPCC shall assist the ICC in advising the division in the development and implementation of policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to provide early intervention services are appropriately and adequately prepared and trained. These policies and procedures must provide for the establishment and maintenance of standards that are consistent with any state approved or state recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which a person is providing early intervention services. *(Division of Family and Children; 470 IAC 3.1-5-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-5-3 Personnel development system
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. The comprehensive system of personnel development established and implemented pursuant to this rule must:
(1) be consistent with the comprehensive system of personnel development required under Part B of the Act and 34 CFR 300.380 through 34 CFR 300.387;
(2) provide for a continuum of training to be conducted on an interdisciplinary basis, to the extent appropriate;
(3) provide for the training of a variety of traditional and nontraditional personnel needed to meet the requirements of the early intervention system, including:
(A) public and private service providers;
(B) primary referral sources;
(C) persons who will serve as service coordinators; and
(D) paraprofessionals; and
(4) ensure that the training provided relates specifically to:
(A) understanding the basic components of early intervention services available in the state;
(B) meeting the interrelated social or emotional, health, developmental, and educational needs of children eligible for early intervention services;
(C) assisting families in:
(i) enhancing the development of their children; and
(ii) in participating fully in the development, implementation, and monitoring of IFSPs;
(D) implementing innovative strategies and activities for the recruitment and retention of early education service providers;
(E) training personnel to work in rural and inner city areas; and
(F) training personnel to coordinate transition services for infants and toddlers into, within, and from an early intervention program to preschool or other appropriate services.
(Division of Family and Children; 470 IAC 3.1-5-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 6. Identification and Referral

470 IAC 3.1-6-1 Public awareness program
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. The LPCC shall advise and assist the division in the division's development and implementation of a public awareness program, as described in 470 IAC 3.1-2-6, that focuses on the early identification of children who are eligible to receive early intervention services, including the preparation and dissemination to all primary referral sources, especially hospitals and physicians, of information materials for parents on the availability of early intervention services. *(Division of Family and Children; 470 IAC 3.1-6-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2257; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-6-2 Child find
Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The LPCC shall assist the ICC in advising the division in the establishment and implementation of policies and procedures to ensure the following:
(1) All infants and toddlers in the state who are eligible for early intervention services are identified, located, and evaluated.
(2) An effective method is developed and implemented to determine which children are receiving needed early intervention

services, and which children are not receiving needed early intervention services.

(b) The LPCC of each county shall be responsible to organize ongoing child find activities in order to identify potential children in the community in need of early intervention services. This child find procedure shall include the opportunity for developmental screening, which is an ongoing effort to separate from the general public, those children who, through informal observation, demonstrate indications of need for further evaluation or assessment.

(c) The child find system shall be coordinated with all other major efforts conducted by other state agencies, tribes, and tribal organizations responsible for the administration of various education, health, and social service programs to locate and identify children, including, but not limited to, the following programs:

(1) Education of Children with Disabilities program under Part B of the Act.

(2) Maternal and Child Health program under Title V of the Social Security Act.

(3) Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program under Title XIX of the Social Security Act.

(4) Developmental Disabilities Assistance and Bill of Rights Act programs.

(5) Head Start Act programs.

(6) Supplemental Security Income program under Title XVI of the Social Security Act.

(7) Children's Nutrition Assistance Act (WIC) program under 42 U.S.C. 1786.

(d) The child find system shall be coordinated, to the extent possible, with the following:

(1) Parents.

(2) Medical programs, such as well-baby clinics.

(3) Indiana healthy families projects.

(4) Hospitals.

(5) Community child care organizations.

(6) Step ahead councils.

(7) Social service agencies.

(Division of Family and Children; 470 IAC 3.1-6-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1337; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2258; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-6-3 Referral procedures

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 3. (a) The child find system shall include procedures to be used by primary referral sources for referring a child to the local SPOE within the early intervention system for:

(1) eligibility determination for needed services and assessment; or

(2) as appropriate, the provision of early intervention services, including development of the initial or interim IFSP as described in 470 IAC 3.1-9.

(b) The LPCC shall establish a system of communication and coordination among participating agencies and other persons and entities within the community serving young children to form a referral network. This referral network shall:

(1) identify and include local providers, especially hospitals and physicians, of services related to early intervention;

(2) enhance providers' knowledge of eligibility criteria for early intervention services; and

(3) coordinate referrals for early intervention services.

(c) The referral procedures established under this section must do the following:

(1) Provide for an effective method of making referrals by primary referral sources.

(2) Ensure that referrals are made to the local SPOE no more than two (2) working days after a child has been identified.

(3) Include procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate the public awareness information described in 470 IAC 3.1-2-6 on the availability of early intervention services to parents of infants and toddlers with disabilities.

(Division of Family and Children; 470 IAC 3.1-6-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1338; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2258; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-6-4 Timelines to act on referrals

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) Once the SPOE receives a referral, it shall appoint an intake coordinator as soon as possible.

(b) Within forty-five (45) days after the SPOE receives a referral, the SPOE shall ensure the following:

(1) Completion of eligibility determination and assessment activities to determine services needed as specified in 470 IAC 3.1-8.

(2) Hold an IFSP meeting in accordance with 470 IAC 3.1-9-1.

(Division of Family and Children; 470 IAC 3.1-6-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1338; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2259; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 7. Eligibility

470 IAC 3.1-7-1 Developmental delay

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) Children from birth through two (2) years of age shall be considered eligible to receive early intervention services if they are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one (1) or more of the following areas:

(1) Cognitive development.

(2) Physical development, including vision and hearing.

(3) Communication development.

(4) Social or emotional development.

(5) Adaptive development.

(b) When using standardized assessments or criterion-referenced measures to determine eligibility, a developmental delay is defined as:

(1) a delay in one (1) or more areas of development as determined by:

(A) one and one-half (1½) standard deviation below the mean; or

(B) twenty percent (20%) or more in function below the chronological age (adjusted for prematurity, if applicable) on an assessment instrument that yields scores in months; or

(2) a delay in two (2) or more areas of development as determined by:

(A) one (1) standard deviation below the mean; or

(B) fifteen percent (15%) or more in function below the chronological age (adjusted for prematurity, if applicable) on an assessment instrument that yields scores in months.

(c) If, because of a child's age or the kind of standardized instruments available in specific domains, a standardized score is not appropriate or cannot be determined, a child may be determined to have a developmental delay by the informed clinical opinion of a multidisciplinary team, which includes the parent and documentation from the child's primary health care provider.

(d) When relying on informed clinical opinion, developmental delay may be determined by a consensus of a multidisciplinary team, including the parent, as a member, using multiple sources of information including, at a minimum, the following:

(1) A developmental history as currently reported by the parent or primary caregiver.

(2) A review of pertinent records related to the child's current health status and medical history. Consideration may be given for:

(A) functional status;

(B) recent rate of change; and

(C) prognosis for change in the near future based on anticipated medical or health factors.

(3) At least one (1) other assessment procedure to document delayed development, such as observational assessment or planned observation of a child's behaviors and parent-child interaction or documentation of delayed development by use of nonstandardized assessment devices, such as developmental checklists.

(Division of Family and Children; 470 IAC 3.1-7-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1338; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2259; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-7-2 High probability of development delay

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. Children from birth through two (2) years of age shall be considered eligible to receive early intervention services if they have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. This category includes children who have identified physical or mental conditions but who may not be exhibiting delays in development at the time of diagnosis. The following are the diagnosed physical or mental conditions that have a high probability of resulting in developmental delay:

(1) Chromosomal abnormalities or genetic disorder.
(2) Neurological disorder.
(3) Congenital malformation.
(4) Sensory impairment, including vision and hearing.
(5) Severe toxic exposure.
(6) Severe infectious disease.
(7) Atypical development disorder.

(Division of Family and Children; 470 IAC 3.1-7-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1339; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2259; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-7-3 Biologically at-risk

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) Children from birth through two (2) years of age shall be considered eligible to receive early intervention services if they are at risk of having substantial developmental delays if early intervention services are not provided due to known biological factors. The following are the biological risk factors that are considered when determining eligibility for early intervention services:

(1) Limited prenatal care.
(2) Maternal prenatal substance abuse.
(3) Severe prenatal complications.
(4) Severe perinatal complications.
(5) Asphyxia.
(6) Very low birth weight.
(7) Small for gestational age (SGA).
(8) Severe postnatal complications.

(b) Eligibility within the biologically at-risk category, indicating the significant presence of factors which are likely to lead to developmental delay, will be determined based on a statement or report signed by a physician indicating the condition that is likely to lead to developmental delay.

(c) The child's multidisciplinary evaluation and assessment must result in a determination that:

(1) the identified condition or conditions are associated with developmental concerns; and
(2) early intervention services are necessary to meet the needs of the child.

(Division of Family and Children; 470 IAC 3.1-7-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1339; errata filed Aug 7,1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2260; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 8. Evaluation and Assessment

470 IAC 3.1-8-1 Evaluation and assessment activities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) Each child, birth through two (2) years of age, referred to a SPOE shall have a timely, comprehensive, multidisciplinary evaluation, including assessment activities related to the child and the child's family. The multidisciplinary team may utilize evaluations and assessments performed prior to the child's participation at this level.

(b) The evaluation and assessment of the child shall be as follows:

(1) Be conducted by personnel trained to utilize appropriate methods and procedures.

(2) Be based on informed clinical opinion.

(3) Include the following:

(A) A review of pertinent records related to the child's current health status and medical history.

(B) An evaluation of the child's level of functioning in each of the following developmental areas:

(i) Cognitive development.

(ii) Physical development, including vision and hearing.

(iii) Communication development.

(iv) Social or emotional development.

(v) Adaptive development.

(C) An assessment of the unique needs of the child in terms of each of the developmental areas specified in this subdivision, including identification of services appropriate to meet the needs of the child.

(Division of Family and Children; 470 IAC 3.1-8-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1340; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2260; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-8-2 Family assessment

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) Assessment activities related to the child and the child's family shall be family-directed and designed to determine the resources, priorities, and concerns of the family related to enhancing the development of the child.

(b) Any assessment of the family that is conducted must be voluntary on the part of the family.

(c) If an assessment of the family is carried out, the assessment must:

(1) be conducted by personnel trained to utilize appropriate methods and procedures;

(2) be based on information provided by the family through a personal interview;

(3) incorporate the family's description of its resources, priorities, and concerns related to enhancing the child's development; and

(4) be administered in the native language of the parent.

(Division of Family and Children; 470 IAC 3.1-8-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1340; errata filed Aug 7,1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2260; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-8-3 Evaluation and assessment timelines

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) Except as provided in subsection (b), the evaluation and initial assessment of each child, including the family assessment, must be completed within the forty-five (45) day time period specified in 470 IAC 3.1-6-4 required to complete evaluation and assessment activities and hold the IFSP meeting.

(b) In the event exceptional circumstances make it impossible to complete the evaluation and assessment within the forty-five (45) day time period, such as if a child is ill, the SPOE must do the following:

(1) Document the circumstances requiring a delay.

(2) Develop and implement an interim IFSP, to the extent appropriate, that includes the following:

(A) The name of the service coordinator who will be responsible for implementation of the interim IFSP and coordination with other agencies and persons.

(B) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(Division of Family and Children; 470 IAC 3.1-8-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1340; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2261; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-8-4 Nondiscrimination in evaluation and assessment

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. Each provider of early intervention services shall adopt nondiscriminatory evaluation and assessment procedures. Providers of early intervention services responsible for the evaluation and assessment of children and families shall, at a minimum, ensure the following:

(1) Tests and other evaluation materials and procedures are administered in the native language of the parent or other mode of communication used by the family unless it is clearly not feasible to do so.

(2) Any assessment and evaluation procedures and materials that are used are selected and administered so as not to be racially or culturally discriminatory.

(3) No single procedure is used as the sole criterion for determining a child's eligibility for early intervention services.

(Division of Family and Children; 470 IAC 3.1-8-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1340; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 9. Individual Family Service Plan

470 IAC 3.1-9-1 Individual family service plan development, review, and evaluation

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) For a child who has been evaluated for the first time and determined to be eligible, a meeting to develop the initial IFSP must be conducted within the forty-five (45) day time period specified in 470 IAC 3.1-6-4 required to complete evaluation and assessment activities and hold the IFSP meeting.

(b) A review of the IFSP for a child and the child's family must be conducted every six (6) months, or more frequently if conditions warrant, or if the family requests such a review. The review may be carried out through a meeting or by any other means that are acceptable to the parent and other participants. The purpose of the periodic review is to determine the following:

(1) The degree to which progress toward achieving the outcomes is being made.

(2) Whether modification or revision of the outcomes or services is necessary.

(c) A meeting must be conducted on at least an annual basis to redetermine eligibility and to evaluate the IFSP for a child and the child's family and, as appropriate, to revise its provisions. The results of any current assessments, conducted under 470 IAC 3.1-8-1, and other information available from the ongoing assessment of the child and family, must be used in determining what services are needed and will be provided.

(d) IFSP meetings shall be conducted:

(1) in settings and at times that are convenient to families; and

(2) in the native language of the family or other mode of communication used by the family unless it is clearly not feasible to do so.

(e) Meeting arrangements must be made with, and written notice provided to, the family and other participants at least ten (10) days before the meeting date to ensure that they will be able to attend.

(f) The contents of the IFSP must be fully explained to the parent and informed, written consent from the parent must be obtained prior to the provision of early intervention services described in the plan. If the parent does not provide consent with respect to a particular early intervention service or withdraws consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided. *(Division of Family and Children; 470 IAC 3.1-9-1;*

filed Jan 29, 1996, 5:15 p.m.: 19 IR 1341; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2261; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2465; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-9-2 Individual family service plan team

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants:
(1) The parent of the child.
(2) Other family members, as requested by the parent, if feasible to do so.
(3) An advocate or person outside of the family if the parent requests that the person participate.
(4) The intake or service coordinator, selected by the family, who has been:
(A) working with the family since the initial referral of the child for evaluation; or
(B) designated to be responsible for implementation of the IFSP.
(5) A person or persons directly involved in conducting the evaluations and assessments.
(6) As appropriate, persons who will be, or have been, providing services to the child or family.
(b) If a person listed in subsection (a)(5) is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including any of the following:
(1) Participating in a telephone conference call.
(2) Having a knowledgeable authorized representative attend the meeting.
(3) Making pertinent records available at the meeting.
(c) Each periodic review must provide for the participation of the persons specified in subsection (a)(1) through (a)(4). If conditions warrant, provisions must be made for the participation of other representatives identified in subsection (a). *(Division of Family and Children; 470 IAC 3.1-9-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1341; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2261; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-9-3 Content of an individual family service plan

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15; IC 20-1-6

Sec. 3. (a) The IFSP must include a statement of the child's present levels of:
(1) physical development, including:
(A) vision;
(B) hearing; and
(C) health status;
(2) cognitive development;
(3) communication development;
(4) social or emotional development; and
(5) adaptive development.
This statement must be based on objective criteria.
(b) With the concurrence of the family, the IFSP must include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child.
(c) The IFSP must include a statement of the major outcome or outcomes expected to be achieved for the child and family and the criteria, procedures, and timelines used to determine the following:
(1) The degree to which progress toward achieving the outcomes is being made.
(2) Whether modifications or revisions of the outcomes or services are necessary.
(d) The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes required by subsection (c), including the following:
(1) The frequency, intensity, and method of delivering the services, including the following:
(A) The number of days or sessions that a service is provided.

(B) The length of time the service is provided during each session.
(C) Whether the service is provided on an individual or group basis.
(D) How a service is provided.
(E) Who is providing the service.

(2) The natural environments, as described in 470 IAC 3.1-4-3, in which early intervention services shall appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment, shall be described and documented.

(3) The location where a service will be provided.

(4) The payment arrangements, if any, including identification of funding sources for each IFSP service.

(5) The projected dates for initiating each service, as soon as possible after the IFSP meetings, and the anticipated duration of each service.

(e) To the extent appropriate, the IFSP must include a description of the following:

(1) Medical and other services that the child needs, but that are not required to be provided through the early intervention system; however, the IFSP need not include routine medical services, such as immunizations and well-baby care unless a child needs those services and the services are not otherwise available or being provided.

(2) The funding sources to be used in paying for the services described in subdivision (1), or the steps that will be taken to secure those services through public or private sources.

(f) The IFSP must include the name of the service coordinator who is qualified to carry out all applicable service coordination responsibilities, and who will be responsible for the implementation of the IFSP and coordination with other agencies and persons.

(g) The IFSP must include the steps to be taken to support the transition of the child to another service type or location within the Part C eligibility period as well as:

(1) preschool services under Part B of the Act, in accordance with 470 IAC 3.1-11, to the extent that those services are considered appropriate; or

(2) other services that may be available, if appropriate.

(Division of Family and Children; 470 IAC 3.1-9-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1341; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2262; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-9-4 Interim individual family service plan

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. Early intervention services for a child who has been determined eligible and the child's family may commence before the completion of additional assessment(s) if the following conditions are met:

(1) Parental consent is obtained.

(2) An interim IFSP is developed that includes the following:

(A) The name of the service coordinator who will be responsible for implementation of the interim IFSP, and coordination with other agencies and persons.

(B) The early intervention services that have been determined to be needed immediately by the child and the child's family.

(3) The evaluation, assessment, and IFSP development are completed within the forty-five (45) day required time period specified in 470 IAC 3.1-8-3.

(Division of Family and Children; 470 IAC 3.1-9-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1342; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2263; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-9-5 Interruption of individual family service plan development

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. The SPOE shall support the development of procedures to ensure that, in the event of exceptional circumstances that make it impossible to complete the evaluation and assessment within the required forty-five (45) day time period specified in 470

IAC 3.1-8-3, the intake coordinator will:

(1) document those circumstances;

(2) develop and implement an interim IFSP, to the extent appropriate; and

(3) assemble and maintain all available data and information, to the extent feasible, until the IFSP process can be completed, or forward the information to the appropriate entities for inclusion in a subsequent IFSP.

(Division of Family and Children; 470 IAC 3.1-9-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1342; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2263; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 10. Service Coordination

470 IAC 3.1-10-1 Designation of a service coordinator

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) Service coordinators shall be selected by the parent of a child eligible for early intervention services.

(b) A service coordinator:

(1) must be qualified to carry out the responsibilities specified in this section; and

(2) may not be a person providing any other direct early intervention services.

(c) A service coordinator must be a person who has, at a minimum, demonstrated knowledge and understanding about the following:

(1) Infants and toddlers who are eligible for early intervention services.

(2) Part C of the Act, IC 12-17-15, 34 CFR 303, and this article directing the implementation of the early intervention system.

(3) The nature and scope of services available through the early intervention system.

(4) The system of payments for early intervention services in the state.

(Division of Family and Children; 470 IAC 3.1-10-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1342; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2263; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-10-2 Service coordinator responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The division shall be responsible for developing and implementing policies to ensure that service coordinators are able to effectively carry out the responsibilities identified in this section. Each child eligible for early intervention services and the child's family must be provided with one (1) service coordinator who shall be responsible for the following:

(1) Coordinating all services identified in the IFSP.

(2) Serving as the single point of contact in helping families obtain the services and assistance they need.

(b) Service coordination is an active, ongoing process that involves the following:

(1) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the IFSP.

(2) 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.

(3) Facilitating the timely delivery of available services.

(4) 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.

(c) Specific service coordination activities shall include the following:

(1) Coordinating the performance of evaluations and assessments.

(2) Facilitating and participating in the development, review, and evaluation of IFSPs.

(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.
(7) Facilitating the development of a transition plan into, within, or from preschool, or other services, as appropriate.
(8) Assuring that the family is informed of its rights, options, and role in the early intervention process.
(9) Providing a conflict resolution function as needed.
(10) Facilitating the sharing of early intervention information between participating service providers and the family.
(11) Coordinating financial case management at the family's request.
(12) Providing information and support to the family.

(Division of Family and Children; 470 IAC 3.1-10-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1343; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2263; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-10-3 Intake coordinator

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. An intake coordinator shall be provided for each child and his or her family referred for eligibility determination and early intervention service needs for the period of time from the date of referral through the development of the initial IFSP. The intake coordinator shall be responsible for the following:

(1) Facilitating a determination as to eligibility of the referred child and the child's family, in conjunction with the multidisciplinary assessment team, and doing the following:
(A) If a child is deemed not eligible, identifying and suggesting:
(i) alternative information, services, or support for the family, including information about the process for initiating reassessment; or
(ii) due process actions.
(B) If a child is deemed eligible and the family consents, but the family does not consent to the provision of early intervention services, informing the family of available rights and the possible consequences if early intervention services are not provided.
(C) If eligibility is established, and the family consents scheduling the IFSP meeting and developing an interim IFSP if appropriate.
(2) Assisting the child's family in the selecting of the ongoing service coordinator.
(3) Assisting the child's family in selecting the service provider or providers.
(4) Providing information and support to the family.
(5) Contacting and coordinating with those who will be conducting the evaluations and assessments based upon identified need and informed parental direction.
(6) Gathering and recording data regarding the child, the child's family, and the early intervention services needed for the child and the child's family.
(7) Maintaining communication with the child and the child's family, including providing notification of all decisions made regarding services for the child or the child's family.
(8) Facilitating the attendance of key participants in the IFSP meeting, especially the parent.
(9) Conducting or facilitating the IFSP meeting.
(10) Assuring the development of an appropriate IFSP.

(Division of Family and Children; 470 IAC 3.1-10-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1343; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2264; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 11. Transition

470 IAC 3.1-11-1 Transition from early intervention system

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15; IC 20-1-6

Sec. 1. Service providers in the early intervention system, and the service coordinator assigned to assist an eligible child and

the child's family, have the responsibility to facilitate a smooth transition of a child and family participating in the early intervention system into, within, or from preschool services provided under Part B of the Act, or to any other environment or combination of environments determined to be appropriate for the child, prior to or at their third birthday. *(Division of Family and Children; 470 IAC 3.1-11-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2264; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-11-2 Division responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15; IC 20-1-6

Sec. 2. (a) To facilitate the transition process for each eligible child and the child's family, the division shall do the following:

(1) Maintain an interagency agreement with the Indiana state board of education, Head Start, Healthy Families, and other entities outlining each party's role and responsibilities to ensure a smooth transition from early intervention services under Part C of the Act to preschool services under Part B of the Act.

(2) Establish the procedures and forms that participants in the early intervention system must follow and use for transition services to ensure the following information is recorded for each eligible child:

(A) A description of how the child's family will be included in the transition plans.

(B) A description of how the service coordinator will do the following:

(i) Notify the appropriate local educational agency or intermediate educational unit in which the child resides.

(ii) Convene, with the approval of the family, a conference among representatives of the division, the family, and the local educational agency or unit, at least ninety (90) days before the child's third birthday or, if earlier, the date on which the child is eligible for preschool services provided in accordance with Part B of the Act and state law, to do the following:

(AA) Review the child's program options for the period from the child's third birthday through the remainder of the school year.

(BB) Establish a transition plan.

(b) The division will seek to identify and establish collaborative agreements with any other programs or entities to facilitate the transition of infants and toddlers, at or prior to their third birthday, to other needed services. *(Division of Family and Children; 470 IAC 3.1-11-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2265; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-11-3 Local planning and coordinating council responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. The LPCC shall support and facilitate the establishment of interagency agreements with participating agencies to ensure the smooth transition of eligible children from the early intervention system to the preschool system or to other appropriate services. The division shall monitor the activities of service providers and service coordinators to ensure that established transition procedures are adhered to. *(Division of Family and Children; 470 IAC 3.1-11-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2265; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-11-4 Service coordinator responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) The service coordinator shall be responsible for the development and implementation of a transition plan process, which process must include the following:

(1) Discussions with, training of, and instructions for parents regarding due process rights, future service options, and other matters related to the child's transition into, within, or from the early intervention system.

(2) Procedures that parents and service providers will utilize to prepare the child for changes in service delivery, including

steps to help the child adjust to, and function in, a new setting. These activities should be established during the last IFSP meeting before the anticipated transition.

(3) With the consent of the parent, the transmission of information about the child to the local educational agency, or other service provider, to ensure continuity of services, including evaluation and assessment information and copies of IFSPs that have been developed.

(b) With the informed, written consent of the parent, the service coordinator shall notify the local educational agency of the child's residence or Part B preschool service provider, or both, eighteen (18) months prior to a child's third birthday, or as soon as the child enters the early intervention system if they are older than eighteen (18) months when they enter the system. The information to be provided by the service coordinator shall include the child's name, the date of birth, and the suspected disability.

(c) At least six (6) months prior to a child's third birthday, with the informed, written consent of the child's parent, the service coordinator shall transmit to the local educational agency of the child's residence, the following:

(1) The most recent IFSP.

(2) The most recent evaluation reports from any appropriate sources.

(3) Other information determined with the family to be relevant to program planning and service delivery.

(d) The service coordinator shall convene, with the approval of the family, a transition conference including the family, the local educational agency of the child's residence, current service providers, and potential service providers, at least ninety (90) days prior to the child's third birthday, or up to six (6) months prior to the child's third birthday, at the discretion of all parties required to attend the transition conference, or any other anticipated transition, to do the following:

(1) Review the child's program options for the period from the third birthday through the remainder of the school year.

(2) Establish the transition plan, that includes the following:

(A) Desired outcomes.

(B) Identified service providers.

(C) An outline regarding transfer of information.

(D) Timelines with dates of anticipated conclusion of early intervention services and commencement of subsequent activities.

(E) With the concurrence of the parent, a statement of the family's priorities, concerns, and resources related to transition expectations.

(Division of Family and Children; 470 IAC 3.1-11-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1344; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2265; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 12. Financial Administration

470 IAC 3.1-12-1 Payor of last resort; interim payments; nonreduction of benefits

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) Except for interim payments described in subsection (b), funds provided by the United States Department of Education for early intervention services through Part C of the Act may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source but for the provision of Part C funds by the United States Department of Education. Therefore, funds provided through state and federal Part C may be used only for early intervention services that an eligible child needs but is not currently entitled to receive under any other federal, state, local, or private source.

(b) In accordance with 34 CFR 303.527(b), if necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, Part C funds may be used to pay a service provider, pending reimbursement from the agency or entity that has ultimate responsibility for the payment. Payment under this subsection may be made for the following:

(1) Required and individualized early intervention services.

(2) Eligible health services, as described in 34 CFR 303.13.

(3) Other functions and services authorized by Part C of the Act and 34 CFR 303.

(c) Nothing in this article may be construed to permit the state to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act (relating to maternal and child health), Title XIX of the Social Security Act (relating to Medicaid for children eligible for early intervention services through Part C of the Act), or any medical program

administered by the Secretary of the United States Department of Defense within the state. *(Division of Family and Children; 470 IAC 3.1-12-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1345; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2266; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-12-2 Funding sources

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The individualized services specified in 470 IAC 3.1-4-2, provided to eligible infants and toddlers and their families, shall be financed through multiple funding sources. Sources which may be available to finance individualized services, as appropriate, may include, but are not limited to, the following:

(1) Title XIX of the Social Security Act (Medicaid).

(2) Third party payors, including private health insurers.

(3) Any medical program administered by the Secretary of the United States Department of Defense.

(4) Cost participation by the parent of an eligible child that receives early intervention services, pursuant to and in accordance with IC 12-17-15-17(b) through IC 12-17-15-17(e).

(b) All infants and toddlers and their families who are eligible for early intervention services through Medicaid and Children's Special Health Care Services must apply for Medicaid and Children's Special Health Care Services.

(c) Third party payors, such as health insurance companies, may be billed for the costs of appropriate early intervention services with informed, written parental consent through financial case management.

(d) Notwithstanding subsections (a)(4), (b), (c), and sections 3 and 7 of this rule, the provision of early intervention services may not be denied or delayed due to disputes between service providers or other agencies regarding financial responsibility to pay for early intervention services, nor because of the inability of the parent of an eligible child to pay for services, under a cost participation plan.

(e) Nothing in this article shall be construed as restricting any service provider from providing services to any person regardless of eligibility status; however, no service provider may utilize any early intervention system funding source for services provided to any ineligible child or family or file claims for reimbursement from the early intervention system for services rendered to such child or family. *(Division of Family and Children; 470 IAC 3.1-12-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1345; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2266; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235; filed Feb 10, 2003, 3:22 p.m.: 26 IR 2320)*

470 IAC 3.1-12-3 Service arrangements

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. The division shall establish policies and procedures pertaining to the contracting, or making of other arrangements, with public or private service providers to provide early intervention services. These policies shall include the following:

(1) A requirement that providers of all early intervention services meet established state standards, consistent with federal and state statutes, regulations, and rules directing the early intervention system.

(2) The mechanisms that will be used in arranging for services, including the process for awarding provider agreements.

(3) The basic requirements that must be met by any individual or organization seeking to provide early intervention services. *(Division of Family and Children; 470 IAC 3.1-12-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1346; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2267; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-12-4 Reports and records

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) Service providers shall make reports and maintain records in such form and containing such information as may be required by the Secretary of the United States Department of Education, the office of the secretary of family and social services, and the division.

(b) Service providers shall maintain all reports and records, and afford access to those reports and records, as the Secretary of the United States Department of Education, the office of the secretary of family and social services, and the division may find necessary to assure the following:

(1) Compliance with the statutes, regulations, and rules directing the implementation of the early intervention system.

(2) Correctness and verification of reports.

(Division of Family and Children; 470 IAC 3.1-12-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1346; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2267; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-12-5 Fiscal controls; expenditures

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. (a) Service providers shall adopt fiscal control and fund accounting procedures to assure proper disbursement of, and accounting for, funds for early intervention services.

(b) Funds for early intervention services must be expended in accordance with the federal and state statutes, regulations, and rules established for each fund source. *(Division of Family and Children; 470 IAC 3.1-12-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1346; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-12-6 Reimbursement

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 6. The division shall establish and implement procedures to assure the timely reimbursement of the costs of early intervention services and methods and rates of reimbursement, if applicable, to reimburse early intervention service providers. *(Division of Family and Children; 470 IAC 3.1-12-6; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1346; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-12-7 Cost participation plan

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. (a) As used in this section, family of an eligible infant or toddler shall be composed of members who live in the same household as the eligible infant or toddler and include only the following members:

(1) Biological parent.

(2) Adoptive parent.

(3) Sibling.

(4) Half-sibling.

(5) Adoptive sibling.

(b) The division shall establish and implement cost participation plan procedures for charges and fees imposed by service providers for the individualized services specified in:

(1) 470 IAC 3.1-4-2(a)(2) through 470 IAC 3.1-4-2(a)(4);

(2) 470 IAC 3.1-4-2(a)(6) through 470 IAC 3.1-4-2(a)(10);

(3) 470 IAC 3.1-4-2(a)(12) through 470 IAC 3.1-4-2(a)(14); and

(4) 470 IAC 3.1-4-2(a)(16).

(c) The cost participation plan procedures for each eligible family shall be based upon the following:

(1) The following schedule of costs, which expires on July 1, 2005:

Percentage of Federal Income Poverty Level			
At Least	But Not More Than	Copayment Per Treatment	Maximum Monthly Cost Share Per Family
0%	350%	$0	$0

351%	450%	$5	$25
451%	550%	$10	$50
551%	650%	$15	$75
651%	750%	$20	$100
751%	850%	$25	$125
851%	1000%	$30	$150
1001%		$36	$180

(2) The parent's ability to pay.

(d) The division may waive or reduce a required copayment if:

(1) out-of-pocket medical expenses and personal care needs expenses incurred, within the previous twelve (12) month period preceding the date of application that relate to the health or medical needs of a family member reduce the level of income the parent has to a lower level found in the schedule of costs at subsection (c)(1); or

(2) the division receives payment from a parent's health care coverage and does not exceed more than three thousand five hundred dollars ($3,500) per eligible child, per year.

(e) A parent who fails to provide the financial information for the division to be able to determine the copayment amount shall pay the maximum level copayment found in the schedule of costs at subsection (c)(1).

(f) The division may allow and accept voluntarily contributed payments that exceed the parent's required copayment amount.

(g) The parent's cost participation amount shall be reviewed by the division for one (1) or both of the following:

(1) Annually.

(2) Within thirty (30) days after the parent reports a reduction in income.

(h) The SPOE shall notify the parent of the following:

(1) The copayment amount per treatment and the maximum monthly cost share per family.

(2) Any recalculated copayment amount per treatment and the maximum monthly cost share per family determined under subsection (g)(1) or (g)(2).

(i) The parent may request reconsideration by the division of the copayment amount within fifteen (15) days from the date the notification of the copayment amount was received by the parent. The request for reconsideration shall:

(1) be written;

(2) be sent to the director of the division; and

(3) state the specific reasons the copayment amount should be reconsidered.

(j) The division shall establish and implement procedures to assure timely reimbursement of the copayment by parents for early intervention services required under this section.

(k) The copayments that are received by the division under this cost participation plan must be used to fund the early intervention system. *(Division of Family and Children; 470 IAC 3.1-12-7; filed Feb 10, 2003, 3:22 p.m.: 26 IR 2320)*

Rule 13. Procedural Safeguards

470 IAC 3.1-13-1 Definitions

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) As used in this rule, "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 for early intervention services.

(b) As used in this rule, "personally identifiable" means information that includes any of the following:

(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.

(4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

(Division of Family and Children; 470 IAC 3.1-13-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1346; readopted filed Jul 12, 2001, 1:40

p.m.: 24 IR 4235)

470 IAC 3.1-13-2 Prior notice; native language

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) Written notice must be given to the parent of a child eligible for early intervention services at least ten (10) days before an early intervention service provider proposes, or refuses, to initiate or change:

(1) the identification, evaluation, or placement of the child; or

(2) the provision of appropriate early intervention services to the child and the child's family.

(b) The notice must be in sufficient detail to inform the parent about the following:

(1) The action that is being proposed or refused.

(2) The reasons for taking the action.

(3) All procedural safeguards that are available.

(4) The state complaint procedures under sections 470 IAC 3.1-14-1, including a description of how to file a complaint and the timelines under those procedures.

(c) The notice must be written in language understandable to the general public and provided in the native language of the parent unless it is clearly not feasible to do so.

(d) If the native language or other mode of communication of the parent is not a written language, the service coordinator shall take steps to ensure the following:

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

(2) The parent understands the notice.

(3) There is written evidence that the requirements specified in this section have been met.

(e) 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. *(Division of Family and Children; 470 IAC 3.1-13-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1347; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2267; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-3 Development of procedural safeguards

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) The division shall be responsible for the development of procedural safeguards and ensuring effective implementation of procedural safeguards by each service provider.

(b) The division shall widely disseminate the procedural safeguards to parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities. *(Division of Family and Children; 470 IAC 3.1-13-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1347; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2465; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-4 Parental consent

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. (a) Informed, written parental consent must be obtained before:

(1) conducting the initial evaluation and assessment of a child; and

(2) initiating the provision of early intervention services.

(b) If consent is not given by the parent, the service coordinator shall make reasonable efforts to ensure that the parent:

(1) is fully aware of the nature of the evaluation and assessment or other services that would be available; and

(2) understands that the child will not be able to receive the evaluation and assessment or other services, unless consent is given.

(c) The parent of a child eligible for early intervention services may determine whether the parent, the child, or other family members will accept or decline any early intervention service, and may decline such a service after first accepting it, without jeopardizing other early intervention services. *(Division of Family and Children; 470 IAC 3.1-13-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1347; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-5 Surrogate parents

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. (a) The division shall be responsible to ensure that the rights of children eligible for early intervention services are protected if:

(1) no parent can be identified;

(2) the SPOE, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) the child is a ward of the state.

(b) The division, in cooperation with the LPCC, shall be responsible for the development of policies and procedures for determining whether a child needs a surrogate parent and for assigning a surrogate parent for the child. Such policies and procedures shall ensure that a person selected as a surrogate parent:

(1) has no interest that conflicts with the interests of the child he or she represents; and

(2) has knowledge and skills that ensure adequate representation of the child.

(c) A person assigned as a surrogate parent may not be any of the following:

(1) An employee of the division.

(2) An employee of any state agency.

(3) An employee of any entity providing early intervention services to the child or to a family member of the child.

A person who otherwise qualifies to be a surrogate parent shall not be considered an employee of an agency solely because he or she is paid by the agency to serve as a surrogate parent.

(d) A surrogate parent may represent a child in all matters related to the following:

(1) The evaluation and assessment of the child.

(2) Development and implementation of the child's IFSPs, including annual evaluations and periodic reviews.

(3) The ongoing provision of early intervention services to the child.

(4) Any other rights established under Part C of the Act and the implementing regulations in 34 CFR 303.

(Division of Family and Children; 470 IAC 3.1-13-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1347; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2267; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2466; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-13-6 Confidentiality of personally identifiable information

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 6. (a) Except as provided in subsection (b), parental consent must be obtained before personally identifiable information is:

(1) disclosed to anyone other than the officials of the participating agency collecting or using early intervention information; or

(2) used for any purpose other than meeting the requirements of the early intervention system.

(b) The SPOE shall not release information from a child's early intervention records to other participating agencies without parental consent unless authorized under the Family Educational Rights and Privacy Act, codified at 20 U.S.C. 1232g, and the implementing regulations found at 34 CFR 99. Should there be a disagreement between a participating agency and a parent regarding the release of personally identifiable information related to a child, the parent must be provided notice of the right to a hearing conducted in accordance with 34 CFR 99.22. *(Division of Family and Children; 470 IAC 3.1-13-6; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1348; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2268; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-7 Notice to parents

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. (a) Participating agencies shall provide notice that is adequate to fully inform parents about the following:

(1) A description of the extent that the notice is given in the native languages of the various population groups in the state.

(2) A description of:

(A) the children on whom personally identifiable information is maintained;

(B) the types of information sought;

(C) the methods the participating agencies intend to use in gathering the information, including the sources from whom information is gathered; and

(D) the uses to be made of the information.

(3) A summary of the policies and procedures that participating agencies must follow regarding:

(A) storage;

(B) disclosure to third parties;

(C) retention; and

(D) destruction;

of personally identifiable information.

(4) A description of all of the rights of parents and children regarding the information described in this section, including the rights provided through the Family Educational Rights and Privacy Act and the implementing regulations in 34 CFR 99.

(b) Before any major identification, location, or evaluation activity, the notice identified in subsection (a) must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state of the activity. *(Division of Family and Children; 470 IAC 3.1-13-7; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1348; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-8 Opportunity to examine records

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 8. (a) The parent of a child eligible for early intervention services must be afforded the opportunity to inspect and review records relating to:

(1) evaluations and assessments;

(2) eligibility determinations;

(3) development and implementation of IFSPs;

(4) individual complaints dealing with the child; and

(5) any other early intervention records about the child and the child's family.

(b) All participating agencies shall permit a parent to inspect and review all early intervention records relating to his or her child collected, maintained, or used by any participating agency, without unnecessary delay, prior to holding the IFSP meeting or any meeting related to:

(1) the child's identification, evaluation, assessment; or

(2) the provision of needed services;

and, in no case, more than forty-five (45) days after the request has been made.

(c) The right to inspect and review early intervention records includes the following:

(1) The right to a response from a participating agency to reasonable requests for explanations and interpretations of a child's early intervention records.

(2) The right of a parent to request that the participating agency provide copies of records containing information concerning the child or the child's family, if the failure to provide copies would effectively prevent the parent from exercising the right to inspect and review the records.

(3) The right of a parent to have a representative of the parent inspect and review the records.

(d) The SPOE or service provider may presume that a parent has authority to inspect and review records relating to his or her

child unless the SPOE has been advised that the parent does not have the authority under applicable state law or court order. *(Division of Family and Children; 470 IAC 3.1-13-8; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1348; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2268; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-9 Record of access; multiple records; location

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 9. (a) Each SPOE shall keep a record of authorized parties obtaining access to early intervention records collected, maintained, or used by the SPOE, except access by parents and authorized employees of the SPOE, including:

(1) the name of the party requesting access;
(2) the date access was given; and
(3) the purpose for which the party is authorized to use the records.

(b) If any record includes information on more than one (1) child, the parent of that child has the right:

(1) to inspect and review only the information relating to his or her child; or
(2) to be informed of that specific information.

(c) Each SPOE shall provide a parent, upon request, a list of the types and locations of early intervention records collected, maintained, or used by the SPOE. *(Division of Family and Children; 470 IAC 3.1-13-9; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1349; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2269; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-10 Amendment of records at parent's request

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 10. (a) A parent who believes information in his or her child's early intervention records is inaccurate or misleading, or violates the privacy or other rights of the child, may request the SPOE maintaining the records to amend the information.

(b) The SPOE shall decide whether to amend the records in accordance with the request, within a reasonable period of time of the receipt of the request, but in no case later than forty-five (45) days from the receipt of the request.

(c) If the SPOE decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal, and advise the parent of the right to a hearing, in accordance with 470 IAC 3.1-15 regarding the refusal. *(Division of Family and Children; 470 IAC 3.1-13-10; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1349; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2269; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-11 Opportunity for and result of hearing

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 11. (a) Participating agencies shall, on request, provide a parent the opportunity for a hearing, in accordance with 470 IAC 3.1-15, to challenge information contained in his or her child's early intervention records that the parent believes is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

(b) If, as a result of a hearing, it is determined that the information is inaccurate, misleading, or violates the privacy or other rights of the child, the participating agency shall amend the information accordingly and inform the parent in writing.

(c) If, as a result of a hearing, it is determined that the information is not inaccurate, misleading, or violates the privacy or other rights of the child, the participating agency shall inform the parent of the right to place in the child's records a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the participating agency. Any explanation placed in the child's records must:

(1) be maintained by the participating agency as part of the records of the child, as long as the records or the contested portion is maintained by the participating agency; and
(2) be disclosed, if the records of the child are, or the contested portion is, disclosed by the participating agency to any party.

(d) Any hearing held under this section must be conducted in accordance with the procedures mandated by the Family

Educational Rights and Privacy Act and 34 CFR 99.22. *(Division of Family and Children; 470 IAC 3.1-13-11; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1349; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-12 Safeguards

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 12. (a) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(b) One (1) official of each participating agency shall assume responsibility for ensuring the confidentiality of personally identifiable information.

(c) All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures concerning the confidentiality of personally identifiable information.

(d) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information. *(Division of Family and Children; 470 IAC 3.1-13-12; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1349; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-13 Destruction of information

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 13. The SPOE shall maintain a child's early intervention records for at least five (5) years after the child leaves the early intervention system unless the family requests the destruction of the records prior to that time. *(Division of Family and Children; 470 IAC 3.1-13-13; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1350; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2269; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-13-14 Enforcement

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 14. (a) The LPCC and the division shall collect and maintain information. The division shall ensure that all requirements governing the confidentiality of records and early intervention information maintained by participating agencies are being implemented by the participating agencies.

(b) In the event that compliance deficiencies are identified, the division shall report the deficiency, in writing, to the responsible participating agency. This report shall:

(1) describe the unmet requirement or requirements leading to the deficiency;

(2) specify the action necessary to correct the deficiency; and

(3) establish a timeline for implementing the corrective action.

(c) If corrective action is not taken, and if further assistance from appropriate enforcement personnel is unsuccessful in remedying the deficiency, the division retains the option of initiating procedures to:

(1) stop further federal and state financial support to the offending service provider; and

(2) require refund payments of monies already provided to the participating agency through the state, from state and federal sources.

(Division of Family and Children; 470 IAC 3.1-13-14; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1350; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2269; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 14. Due Process Procedures for Violations of Federal and State Laws, Regulations, and Rules

470 IAC 3.1-14-1 Complaints; violations of law

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) Any individual or organization may file a complaint against a participating agency alleging violations of federal or state laws, regulations, and rules that apply to the early intervention system.

(b) The complaint shall:

(1) be in writing;

(2) indicate the allegations of violation or violations and the factual circumstances on which the allegations are based;

(3) be signed by the complainant or complainants;

(4) be submitted to the division no later than one (1) year after the date of the alleged violation, unless:

(A) a longer period is reasonable because the violation is continuing; or

(B) the individual or organization is requesting compensatory services, reimbursement, or corrective action for an alleged violation that occurred no longer than three (3) years prior to the date the division receives the complaint;

(5) indicate the name of the child and the address of the residence of the child; and

(6) indicate a proposed resolution of the problem to the extent known and available to the parents at the time.

(c) The division, or its designee, shall be responsible for the assignment of an individual to investigate a complaint.

(d) Any individual assigned to investigate a complaint shall have knowledge of the early intervention system.

(e) The division shall develop a model form to assist parents in filing a complaint and widely disseminate it to parents and other interested individuals.

(f) If a complaint is also the subject of a due process hearing under 470 IAC 3.1-15, or contains multiple issues, including due process issues, the division must do the following:

(1) Set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing.

(2) Resolve all parts of the complaint that are not part of the due process action within the sixty (60) calendar day time line described in section 2 of this rule.

(g) If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the:

(1) hearing decision is binding; and

(2) division must inform the complainant of the binding decision.

(Division of Family and Children; 470 IAC 3.1-14-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1350; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2269; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2466; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-14-2 Complaint investigator responsibilities

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The complaint investigator shall do the following:

(1) Carry out an independent, on-site investigation, if the investigator determines an on-site investigation is necessary, including contacting the complainant and the participating agency named in the complaint to clarify the issues if necessary.

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(3) Review all relevant information and make an independent determination as to whether the participating agency violated, or is violating, the laws, regulations, and rules directing the early intervention system.

(4) Issue a written decision that addresses each allegation in the complaint, and contains findings of fact and conclusions, and the reasons for the complaint investigator's final decision. The written decision shall be provided to the following:

(A) The complainant.

(B) The director or chief executive officer of the participating agency involved.

(C) The director of the division.

(5) Facilitate procedures for effective implementation of the written decision, if needed, including:

(A) technical assistance activities;

(B) negotiations; and
(C) corrective actions to achieve compliance.

(b) The final written response of the complaint investigator shall be issued within sixty (60) days of the date the written complaint is received by the division.

(c) An extension of time for issuance of the written decision may be granted by the director of the division, upon request of the complaint investigator, if exceptional circumstances exist with respect to a specific complaint and good cause is shown. In that event, all parties shall be notified, in writing, of any extension and the reasons therefor.

(d) Any timelines for the participating agency to submit a corrective action plan and to achieve compliance with the plan shall be included in the complaint investigator's decision. Compliance with orders issued by the complaint investigator shall be monitored by the division and the LPCC. *(Division of Family and Children; 470 IAC 3.1-14-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1350; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-14-3 Failure to comply

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) The failure of the participating agency to comply with orders issued by a complaint investigator may result in the withholding by the state of federal and state funds to the agency.

(b) A complaint alleging a participating agency's failure to implement a due process decision must be resolved by the division. *(Division of Family and Children; 470 IAC 3.1-14-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1351; filed Mar 15, 2001, 8:20 a.m.: 24 IR 2467; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-14-4 Reconsideration by the director (Repealed)

Sec. 4. *(Repealed by Division of Family and Children; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2272)*

Rule 15. Impartial Procedures for Resolving Individual Child Complaints; Due Process Hearings

470 IAC 3.1-15-1 Rights to an impartial hearing

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) The parents of an eligible child and a participating agency have the right to initiate an impartial hearing prior to:
(1) the proposal, or refusal, to initiate or change the:
(A) identification;
(B) evaluation; or
(C) placement;
of a child; or
(2) the provision of early intervention services to a child or the child's family.
(b) A request for a due process hearing and the appointment of an independent hearing officer shall:
(1) be in writing and signed;
(2) be filed simultaneously with the other parties, and their agents, and the division; and
(3) specify the reasons for the hearing request.
(c) Any impartial hearing conducted in accordance with this rule shall be conducted by the impartial hearing officer.
(d) All participating agencies shall inform a parent of any free or low cost legal and other relevant services available if:
(1) the parent requests the information; or
(2) the parent or participating agency initiates a hearing in accordance with this rule.
(Division of Family and Children; 470 IAC 3.1-15-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1351; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2270; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-15-2 Impartial hearing officer

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 2. (a) The assignment of an impartial hearing officer shall be made by the division or its designee.

(b) The person assigned to conduct an impartial hearing must have knowledge about the statutes, regulations, and rules directing the early intervention system and the needs of, and services available for, eligible infants and toddlers and their families. The impartial hearing officer shall do the following:

(1) Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint.

(2) Provide a record of the proceedings, including a written decision which contains findings of fact and conclusions and the reasons for the decision.

(c) A hearing may not be conducted by the following:

(1) A person who is an employee of a participating agency involved in providing early intervention services or care to the child.

(2) A person having a personal or professional interest that would conflict with his or her objectivity in implementing the hearing process.

(3) A person who is an employee of the state agency involved in the education of the child.

(d) A person who otherwise qualifies to conduct a hearing under this rule shall not be considered an employee of a participating agency solely because he or she is paid by the participating agency to implement the complaint resolution process.

(e) The division or its designee shall keep a list of the persons available to serve as hearing officers. The list must include information regarding the qualifications of each of the hearing officers.

(f) The division or its designee shall provide training for hearing officers used to conduct hearings under this rule. *(Division of Family and Children; 470 IAC 3.1-15-2; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1351; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2270; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-3 Hearing rights

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 3. (a) Any party to a hearing conducted under this rule shall have a right to the following:

(1) Disclosure to all other parties of all evaluations and recommendations, based on the offering party's evaluation, that the party intends to use at the hearing, that have been completed by five (5) business days prior to the hearing.

(2) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for eligible infants and toddlers with disabilities.

(3) Present evidence and confront, cross-examine, and compel the attendance of witnesses.

(4) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five (5) days before the hearing.

(5) Obtain a written or, at the option of the parents, electronic verbatim transcription of the hearing.

(6) Obtain written, or at the option of the parents, electronic verbatim transcription, findings of fact, and decisions.

(b) Parents involved in hearings have the right to have:

(1) the child who is the subject of the hearing present at the hearing; and

(2) the hearing open to the public.

(c) The division or its designee, after deleting any personally identifying information, shall transmit the findings and decision to the ICC and make the findings and decision available to the public. *(Division of Family and Children; 470 IAC 3.1-15-3; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1352; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2271; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-4 Convenience of proceedings

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 4. Any proceeding for implementing the impartial hearing process must be carried out at a time and place that is reasonably convenient to the parent of an eligible child. *(Division of Family and Children; 470 IAC 3.1-15-4; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1352; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-5 Hearing decision; appeal for impartial review

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 5. A decision made in a hearing conducted under this rule is final unless a party to the hearing appeals the decision under sections 6 and 7 of this rule. *(Division of Family and Children; 470 IAC 3.1-15-5; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1352; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-6 Administrative appeal; impartial review

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 6. (a) Any party aggrieved by the findings and decision of the impartial hearing officer may appeal to the division.

(b) If there is an appeal, the division shall conduct an impartial review of the hearing. The official conducting the review shall do the following:

(1) Examine the entire hearing record.
(2) Ensure that the procedures at the hearing were consistent with the requirements of due process.
(3) Seek additional evidence if necessary.
(4) If a hearing is held to receive additional evidence, provide the hearing rights specified in section 3 of this rule.
(5) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.
(6) Make an independent decision on completion of the review.
(7) Give a copy of the written findings of fact and decision to the parties.

(c) The decision made by the reviewing official is final unless a party brings a civil action under section 7 of this rule.

(d) The division, after deleting any personally identifiable information, shall do the following:

(1) Transmit the findings and decisions made under this rule to the ICC.
(2) Make those findings and decisions available to the public.

(Division of Family and Children; 470 IAC 3.1-15-6; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1352; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2271; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

470 IAC 3.1-15-7 Civil action

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 7. Any party aggrieved by the findings and decision made in a hearing who does not have the right to appeal under section 6 of this rule, and any party aggrieved by the decision of a reviewing officer under section 6 of this rule, has the right to bring a civil action in any court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. *(Division of Family and Children; 470 IAC 3.1-15-7; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1352; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-8 Timelines and convenience of hearings and reviews

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 8. (a) The division shall ensure that not later than forty-five (45) days after the receipt of a request for a hearing:

(1) a final decision is reached in the hearing; and
(2) a copy of the decision is mailed to each of the parties.

(b) Any party dissatisfied with the decision may appeal for an impartial review by the division under section 6 of this rule. The appeal must:

(1) be in writing;

(2) filed simultaneously with the division and the opposing party; and

(3) filed within thirty (30) calendar days of the date the hearing officer's decision is received by the party.

(c) The division shall ensure that not later than thirty (30) days after the receipt of a request for a review:

(1) a final decision is reached in the review; and

(2) a copy of the decision is mailed to each of the parties.

(d) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in subsections (a) and (b) at the request of either party.

(e) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parent and child involved. *(Division of Family and Children; 470 IAC 3.1-15-8; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1353; errata filed Aug 7, 1996, 11:10 a.m.: 19 IR 3471; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2271; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-9 Mediation

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17

Affected: IC 12-17-15

Sec. 9. (a) Mediation is a voluntary option that can be used when a parent and a participating agency cannot agree on matters related to the identification, evaluation, or provision of services to a child or the child's family, as an alternative to the procedures found in this rule.

(b) Mediation may be requested when both parties agree to the mediation process.

(c) Mediation may occur prior to or concurrent with a request for an impartial hearing. A request for mediation shall not preclude or delay an impartial hearing, the timelines required to be met when an impartial hearing is conducted, nor deny any other rights afforded under Part C.

(d) Persons who serve as mediators shall:

(1) be trained in effective mediation techniques;

(2) have no conflicts of interest concerning the parties or issues involved in the mediation process;

(3) be impartial; and

(4) have knowledge of the early intervention system and the needs of infants and toddlers with disabilities and their families.

(e) The division shall:

(1) Maintain a list of qualified mediators.

(2) Assure that each session in the mediation process is scheduled in a timely manner.

(3) Assure that the location of the scheduled mediation is convenient to the parties in dispute.

(4) Bear the cost of the mediation process.

(f) A mediation agreement:

(1) shall not be binding upon any party;

(2) shall be submitted to the IFSP team for approval; and

(3) shall be in writing.

(g) Discussions that occur during the mediation process must:

(1) be confidential; and

(2) not be used as evidence in any subsequent due process hearings or civil proceedings.

(h) Parties to the mediation must sign a confidentiality pledge prior to the commencement of the process.

(i) Where an impartial hearing has been requested and an impartial hearing officer assigned, the mediation agreement shall be submitted, upon request of the hearing officer, to the hearing officer.

(j) If a mediation agreement is reached while a petition for review is pending with the division, the agreement shall, upon request of the division, be submitted to the division. *(Division of Family and Children; 470 IAC 3.1-15-9; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1353; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2272; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)*

470 IAC 3.1-15-10 Status of a child during proceedings

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 10. (a) During the pendency of any proceedings involving complaints initiated under this rule, unless the service provider and the parent of a child otherwise agree, the child must continue to receive the appropriate early intervention services currently being provided.

(b) If the complaint involves an application for initial services, the child must receive those services that are not in dispute.

(Division of Family and Children; 470 IAC 3.1-15-10; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1353; filed Mar 9, 1999, 2:05 p.m.: 22 IR 2272; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

Rule 16. Waiver

470 IAC 3.1-16-1 Waiver process

Authority: IC 12-8-8-4; IC 12-13-2-3; IC 12-13-5-3; IC 12-17-15-17
Affected: IC 12-17-15

Sec. 1. (a) When, under an unusual circumstance, an LPCC or a participating agency requests a waiver of this article, a written request must be submitted to the division which includes the following:

(1) The specific rule or provision for which a waiver is requested.

(2) The length of time for which a waiver is requested.

(3) Justification for the waiver request, including:

(A) the need;

(B) the circumstances; and

(C) the benefit;

to the applicable county or to the children or families served.

(4) The projected fiscal or program implications.

(5) A plan for achieving compliance with the specified rule.

(b) The division shall review the request and issue a written determination within fifteen (15) days of the receipt of the request.

(c) Any waiver request will be approved for a period not to exceed one (1) year and may be renewed only if approved following a resubmission of the request.

(d) A waiver request shall not be approved if the request:

(1) would result in noncompliance with federal or state statutes or regulations; or

(2) jeopardizes any procedural safeguards or rights of confidentiality.

(Division of Family and Children; 470 IAC 3.1-16-1; filed Jan 29, 1996, 5:15 p.m.: 19 IR 1353; readopted filed Jul 12, 2001, 1:40 p.m.: 24 IR 4235)

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