

## **TITLE 480 - HOME AND COMMUNITY-BASED SERVICES**

### **CHAPTER 1 - EARLY INTERVENTION SERVICES COORDINATION**

**001. SCOPE AND AUTHORITY.** The regulations govern the services provided under Nebraska's Early Intervention Program as defined by Nebraska Revised Statute (Neb. Rev. Stat.) §§ 43-2501 to 43-2516.

**002. RELATIONSHIP TO NEBRASKA ADMINISTRATIVE CODE (NAC) TITLE 480 WAIVER REGULATIONS** The provisions outlined in this 480 Nebraska Administrative Code (NAC) Chapter 1 apply solely to this chapter. The provisions of this chapter apply to the Early Intervention Program and do not apply to Home and Community-Based Services unless otherwise specifically stated.

**003. DEFINITIONS.** The following definitions apply:

**003.01 APPROVED COOPERATIVE.** An approved cooperative is an agreement between two or more school districts for an Educational Service Unit (ESU) approved by the Nebraska Department of Education pursuant to 92 NAC 51 to jointly perform special education functions, including receipt of special education payments.

**003.02 CHILD ASSESSMENT.** The ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. Child assessment procedures are identified in Nebraska Department of Education regulations at 92 NAC 52.

**003.03 CO-LEAD AGENCIES.** The Nebraska Department of Health and Human Services and the Nebraska Department of Education and any other agencies appointed by the Governor responsible for planning, implementation, and administration of the federal early intervention service program and the Nebraska Early Intervention Act.

**003.04 CONSENT.** Consent means that the parent has been informed, in the parent's native language, of all information relevant to the activity for which consent was requested. The consent form describes the activity and lists the early intervention records that will be released and to whom they will be released. The parent understands that the granting of consent is voluntary and may be revoked at any time. Consent cannot be revoked retroactively.

**003.05 EARLY INTERVENTION SERVICES.** Early intervention services are defined in 92 NAC 52. Early intervention services are provided under public supervision, are selected in collaboration with the parent, and are provided at no cost. These services are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family to assist appropriately in the infant's or toddler's development as identified by the Individualized Family Service Plan (IFSP) team.

**003.06 ELIGIBLE INFANTS AND TODDLERS WITH DISABILITIES.** Children two years of age or younger who are verified for early intervention services. Toddlers who reach age three during the school year remain eligible through the end of the school's fiscal year.

**003.07 ENTITLEMENT.** Benefit(s) of a program granted by law to persons who fit within defined eligibility criteria. Entitlement through the Nebraska Early Intervention Act includes services coordination and development of the Individualized Family Service Plan (IFSP).

**003.08 FAMILY ASSESSMENT.** A voluntary interview with family members through the use of an assessment tool by qualified personnel to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability.

**003.09 INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP).** A written plan for providing early intervention services for an eligible infant or toddler and the infant's or toddler's family. The plan is developed and implemented in accordance with regulations in this chapter and with the Nebraska Department of Education regulations at 92 NAC

52.

003.10 INFANT OR TODDLER WITH A DISABILITY. An individual under three years of age who needs early intervention services because the individual is experiencing a significant developmental delay in one or more areas as defined in Nebraska Department of Education regulations at 92 NAC 52.

003.11 NATIVE LANGUAGE. When used with respect to an individual who has limited English proficiency, native language means the language normally used by that individual. For evaluations and assessments for a child, native language is the language normally used by the child if determined developmentally appropriate for the child by qualified personnel conducting the assessment. When used with respect to an individual who is deaf or hard of hearing, visually impaired, or for an individual with no written language, native language means the mode of communication that is normally used by the individual.

003.12 NATURAL ENVIRONMENTS. Settings that are natural or typical for a child of the same age who have no disabilities.

003.13 NOTICE. A written statement provided to the parents of an eligible child a reasonable time before a public agency or service provider proposes or refuses to initiate or change services. This includes identification, evaluation, or placement of the child or the provision of appropriate early intervention services to the child and the child's family. The statement must contain a description of the action, reasons, and an explanation of procedural safeguards. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

003.14 PARENT. A biological or adoptive parent, an individual acting in the place of a biological or adoptive parent, or legal guardian of a child, but does not include the state if the child is a ward of the State. A parent includes a surrogate parent appointed as provided in 92 NAC 52.

003.15 PERIODIC REVIEW. A review of the Individualized Family Service Plan (IFSP) which must be conducted every six months, or more frequently if conditions warrant, or the family requests such a review.

003.16 PLANNING REGION TEAM. An organized group of parents, advocates and representatives from school districts, agencies, educational service units, Head Start, and other relevant agencies or persons responsible for assisting in the planning and implementation of the Nebraska Early Intervention Act in each local community or region.

003.17 SCREENING. Optional procedures and activities adopted by the school district or approved cooperative under Nebraska Department of Education regulations at 92 NAC 52 to identify, at the earliest possible age, infants and toddlers suspected of having a disability and in need of early intervention services; and includes the administration of appropriate instruments by trained personnel.

003.18 SERVICES COORDINATION. An ongoing flexible, individualized process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to gain access to, and coordinate the provision of, early intervention services and coordinate the other services identified in the Individualized Family Service Plan (IFSP) that are needed by, or are being provided to, an eligible infant or toddler and their family. The services coordinator assists the family to identify and meet the family and child's needs through coordination of informal and formal supports. This includes activities carried out by a services coordinator to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the Early Intervention Program.

003.19 SERVICES COORDINATION AGENCY. An agency identified in each planning region which assumes the responsibility to deliver the entitlement of services coordination in the region through an agreement or contract with the Department.

003.20 TRANSITION PLAN. Documentation in the Individualized Family Service Plan (IFSP) which includes steps for the toddler with a disability and the toddler's family to exit from the program; and any transition services that the

Individualized Family Service Plan (IFSP) team identifies as needed by that toddler and the toddler s family.

**004. PLANNING REGION TEAM.** Each planning region, as required in Nebraska Department of Education regulations at 92 NAC 52, must establish an interagency planning region team and is required by state statute to assist in the planning functions related to the implementation and maintaining of the Nebraska Early Intervention Act in the region.

004.01 TEAM ROLE AND RESPONSIBILITIES. The planning region team is responsible for establishing a services coordination system in the region.

004.01(A) SERVICES COORDINATION AGREEMENT OR CONTRACT AWARD ACTIVITIES The planning region team must:

(i) Complete an assessment to identify the needs of eligible children and families in the region, and the capacity of the region to meet the assessed needs. This process is to be completed before entering into the agreement or contract to ensure the recruitment, selection, and hiring of services coordinator(s) meets the region s identified needs; and

(ii) Be responsible for identifying potential provider(s) to ensure a community-based decision. The planning region team does not have legal authority to enter into a contract for services coordination. The planning region team must:

(1) Provide general information to the community about services coordination contracting; and

(2) Distribute the State s proposal guidelines to agencies in the region and submit proposals that meet the proposal requirements for review.

004.02 NEGOTIATIONS. Negotiations for the provision of services coordination and systems support for the region will be conducted by the co-lead agencies.

004.03 ONE AGREEMENT PER REGION. One agreement or contract for services coordination will be awarded per planning region; however, the services coordination agency may serve multiple planning regions or may sub-contract with other providers in the region to provide services coordination, supervision or administrative support.

004.04 PROVIDER LOCATION ASSISTANCE If the planning region team is unable to identify a potential agency or agencies to enter into an agreement or contract for the provision of services coordination, the co-leads will assist the region to identify an agency to provide services coordination for the region.

004.05 EFFECTIVE DATE. Services coordination will be effective upon the completion of the agreement or contract and upon adherence to all applicable rules and regulations as set forth in NAC Titles 465, 471, 480, and 92 NAC 52. An agreement or contract must be in effect before services coordination is billable for reimbursement.

**005. SERVICES COORDINATION ENTITLEMENT.** Services coordination is an entitlement for early intervention families. Eligible children and their family must be assigned a services coordinator who is responsible for:

(A) Coordinating all services across agency lines; and

(B) Serving as the single point of contact for carrying out the activities specified below.

005.01 SPECIFIC SERVICES COORDINATOR ACTIVITIES INCLUDE

(A) Assisting parents of eligible children in obtaining access to needed early intervention services and other services identified in the Individualized Family Service Plan (IFSP), including making referrals to providers for needed services and scheduling appointments for eligible children and their families;

(B) Coordinating the provision of early intervention services and other educational, social, or medical services that the eligible child needs or is being provided;

- (C) Coordinating screenings, evaluations, and assessments;
- (D) Facilitating and participating in the development, review, and evaluation of Individualized Family Service Plans (IFSPs);
- (E) Conducting referral and other activities to assist families in identifying available service providers;
- (F) Coordinating, facilitating, and monitoring the delivery of services to ensure that the services are provided in a timely manner;
- (G) Conducting follow-up activities to determine that appropriate early intervention services are being provided;
- (H) Informing families of their rights and procedural safeguards and ensuring that the family rights are safeguarded;
- (I) Coordinating the funding sources for early intervention services; and
- (J) Facilitating the development of a transition plan to preschool or other services, if appropriate.

**005.02 POLICY CONFORMITY.** All policies and procedures in the Early Intervention Program must conform to the definition of case management in the Medicaid Program, 471 NAC 40-000.

**005.03 PROVISION OF MEDICAID HOME AND COMMUNITY-BASED SERVICES.** The services coordinator will ensure that all eligible infants and toddlers requiring nursing facility level of care services will be offered Aged and Disabled Medicaid Home and Community-Based Waiver services as an option for services coordination. The waiver services provided to eligible children are governed by 480 NAC Chapter 2-6.

**006. REFERRAL.** Referrals may be made by anyone who suspects a developmental delay in an infant or toddler no more than seven days after a child has been identified by a primary referral source. This includes referrals on behalf of children who have medically complex needs that have impact on their development; Indian infants and toddlers with disabilities residing on a reservation geographically located in the state; infants and toddlers with disabilities who are homeless, in foster care, and wards of the State; and infants and toddlers with disabilities who are the subjects of substantiated cases of child abuse or neglect, or are identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

**006.01 PRIMARY REFERRAL SOURCES.** Primary referral sources include, but are not limited to, hospitals, physicians, parents, child care programs and early learning programs; public health facilities; other social service agencies; public agencies and staff in the child welfare system, including child protective services and foster care; homeless family shelters; domestic violence shelters and agencies; and other health care providers.

**006.02 REFERRAL TRANSFER.** Upon receipt of a referral, the school district or approved cooperative must immediately transfer the referral information to the agency responsible for providing services coordination in the planning region.

**006.03 SERVICE COORDINATION BEGIN DATE.** A child age birth to three and the child's family referred to the Early Intervention Program may immediately begin receiving services coordination, regardless of whether the child has been verified as eligible for early intervention services. This initial eligibility remains in effect until the family is informed of the results of the multidisciplinary evaluation team (MDT) evaluation. The initial need for services coordination is jointly determined and documented by the family and the services coordinator.

**006.04 SERVICE COORDINATION AGENCY REQUIREMENTS.** The services coordination agency must:

- (A) Accept referrals from any source;
- (B) Document the date of referral and gather general demographic information about the child and family; and

(C) Assign a services coordinator who will be responsible for:

(i) Contacting the family within seven calendar days of the receipt of the referral to set up a face-to-face meeting at a time and place mutually agreed upon; and

(ii) Completing the face-to-face meeting within seven calendar days of the initial contact, unless the family requests a delay. The face-to-face meeting must include:

(1) Providing written notice and obtaining written consent for the child's initial screening and evaluation;

(2) Continuing to work with the family, according to the family's needs and wishes until a decision is made as to the eligibility of the child; and

(3) Notifying the referral source of the referral outcome, with the permission of the family.

#### **007. CHILD SCREENING PROCEDURES AND MULTIDISCIPLINARY EVALUATION TEAM (MDT) ELIGIBILITY**

**DETERMINATION.** School district or approved cooperative staff must determine eligibility for early intervention services and must explain rights to families, as described in Nebraska Department of Education regulations at 92 NAC 52.

**007.01 SERVICES COORDINATOR RESPONSIBILITY.** The services coordinator must:

(A) Provide written notice and obtain consent for screening, multidisciplinary evaluation, and child assessment. If screening procedures are utilized to identify whether the child is suspected of having a disability, and the screening indicates the child is suspected of having a disability, written notice for evaluation and child assessment must be provided and written consent must be obtained by the services coordinator prior to the evaluation and child assessment being conducted;

(B) Coordinate screenings, evaluations, and assessments, and assist families to understand the screening and multidisciplinary evaluation team (MDT) process and how it relates to the Early Intervention Program; and

(C) Maintain contact with the family during the screening and evaluation period and assist the multidisciplinary evaluation team (MDT) as appropriate. If, at any time during the screening process, the parent requests and consents to an evaluation, the service coordinator must immediately provide written notice and obtain consent for the evaluation and child assessment from the parent and inform the district or approved cooperative accordingly.

**007.02 ELIGIBILITY FOR SERVICES COORDINATION.** The family is eligible for ongoing services coordination when the multidisciplinary evaluation team (MDT) evaluation supports the child's eligibility for early intervention services. A child is eligible and may be referred for services coordination through the end of the school's fiscal year, August 31, in which the child reaches age three.

**007.02(A) INELIGIBILITY.** When the screening or multidisciplinary evaluation team (MDT) evaluation does not support eligibility for early intervention services, the child and the child's family is not eligible to receive services coordination through the Early Intervention Program.

**007.02(B) SERVICES PROVIDED.** The family's need and priority for services coordination is jointly determined and documented by the Individualized Family Service Plan (IFSP) team, including the family and the services coordinator. The amount and duration of services coordination is based on the documented need, is provided in accordance with Department policy and standards, and is identified in the Individualized Family Service Plan (IFSP).

**007.03 POST-REFERRAL TIMELINES.** The screening, evaluation, and assessment of the child, family assessment, and the Individualized Family Service Plan (IFSP) meeting must take place within 45 calendar days of the referral.

**007.03(A) EXTENDED TIMELINE.** The family may extend the 45-day process at any time. In this circumstance, the Early Intervention Program must document that the family does not want to complete the Individualized

Family Service Plan (IFSP) within the required timeline. The 45-day process timeline also does not apply when the child or parent is unavailable to complete the screening, the initial evaluation, the initial assessments of the child and family, or the initial Individualized Family Service Plan (IFSP) meeting due to exceptional family circumstances that are documented in the child's record; or the parent has not provided consent for the screening, the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the services coordinator to contact the family or obtain parental consent. When the family wants to resume the process, the screening, initial evaluation, initial assessments, and the initial Individualized Family Service Plan (IFSP) meeting must be completed as soon as possible after the documented exceptional family circumstances no longer exist or parental consent is obtained.

**007.04 DENIAL NOTICE.** For children who do not qualify for early intervention services, the services coordinator must:

(A) Send the family written notice of denial or termination on the required Department form. This notice must contain:

- (i) A clear statement of the action to be taken;
- (ii) A clear statement of the reason for the action;
- (iii) A specific policy reference which supports such action; and
- (iv) A complete statement of the family's right to appeal.

(B) Service delivery ends and the case is closed.

**008. CHILD AND FAMILY ASSESSMENT.** Child and family assessment assists the family to identify concerns and desired priorities and understand the scope of services that will be available to their child and family including the provision of these services in home and community settings. School districts and approved cooperatives are responsible for conducting the child assessment and related procedural safeguards as described in Nebraska Department of Education regulations at 92 NAC 52.

**008.01 SERVICE COORDINATOR RESPONSIBILITIES.** The services coordinator must:

(A) Assist the family in becoming fully informed of the results of the multidisciplinary evaluation team (MDT) evaluation;

(B) Provide the family with referrals to other agencies and supports according to the family's and child's needs;

(C) Facilitate coordinated intake as the family accesses services in the community; and

(D) Meet with the family to:

(i) Conduct a family assessment to identify the family's daily routines, activities, and options for supporting the family in identifying their resources, priorities, and concerns. The family-directed assessment must be voluntary on the part of each family member participating and include the family's description of its resources, priorities, and concerns and the supports and services necessary related to enhancing the child's development. The family is assisted in identifying the supports and resources present in the child's environment and activities in the child's daily routine that offer opportunities for the child to learn the new skills; and

(ii) Prepare for the Individualized Family Service Plan (IFSP) meeting by:

(1) Determining the goals, desired results, and outcomes for the child and family as identified through the family assessment. Based on the results of the multidisciplinary evaluation team (MDT) evaluation,

other assessments, and the wishes of the family, Individualized Family Service Plan (IFSP) team membership is established per federal and state regulatory requirements;

(2) Scheduling the Individualized Family Service Plan (IFSP) meeting at a location and time convenient to the family and providing written notice to all team members in sufficient time to allow them to attend; and

(3) Ensuring team members who will not be attending the Individualized Family Service Plan (IFSP) meeting have the opportunity to provide input in an alternative way.

**009. INTERIM INDIVIDUALIZED FAMILY SERVICE PLAN** An interim Individualized Family Service Plan (IFSP) must be developed using the Individualized Family Service Plan (IFSP) process to document and initiate early intervention services for an eligible child and the child's family before the completion of the evaluation and assessment if the following conditions are met:

(A) School district personnel notify the services coordinator that, based on professional judgment and available information, the child may be eligible;

(B) Parental consent is obtained;

(C) An interim Individualized Family Service Plan (IFSP) is developed that includes;

(i) The name of the services coordinator who will be responsible for the interim Individualized Family Service Plan (IFSP) and coordination with other agencies and persons; and

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

(D) The evaluation and assessment are completed within the 45 calendar day timeline.

**009.01 INTERIM MEETING TEAM MEMBERS.** Team members must include:

(A) Family and family members, as requested by parent(s);

(B) Advocate or person outside of family, as requested by parent;

(C) Services coordinator; and

(D) A representative of the school district or approved cooperative who has the authority to commit resources.

**009.02 EXIT PROCEDURES.** If the child is not then verified as eligible for early intervention services through the multidisciplinary evaluation team (MDT) process, the services coordinator must implement formal exit procedures as stated in this chapter.

## **010. PROCEDURES FOR INDIVIDUALIZED FAMILY SERVICE PLAN DEVELOPMENT, REVIEW, AND EVALUATION**

**010.01 INITIAL INDIVIDUALIZED FAMILY SERVICE PLAN MEETING** For each infant or toddler with a disability, a meeting must be held to develop the initial Individualized Family Service Plan (IFSP) by a multidisciplinary team, which includes the parent and services coordinator, within the regulatory required timelines.

**010.02 PERIODIC REVIEW.** A review of the Individualized Family Service Plan (IFSP) must be conducted every six months or more frequently if warranted or requested by the family to determine the degree to which results or outcomes are being achieved, and whether modification or revision of services, results, or outcomes are necessary.

**010.02(A) MEETING.** This review may be carried out by a meeting or by another means acceptable to the

family and other participants.

010.02(B) INITIATION. All reviews are initiated by the services coordinator, but can be requested by any team member.

010.03 ANNUAL INDIVIDUALIZED FAMILY SERVICE PLAN MEETING A meeting chaired by the services coordinator or the family must be conducted on at least an annual basis to evaluate and revise, as appropriate, the Individualized Family Service Plan (IFSP). The results of any current evaluations and other information available from the assessments of the child and family must be used in determining the early intervention services that are needed and will be provided.

010.04 ANNUAL MEETING TEAM MEMBERS. Initial and annual Individualized Family Service Plan (IFSP) meeting team members must include:

- (A) Family and family members, as requested by parent(s);
- (B) Advocate or person outside of family, as requested by parent;
- (C) Services coordinator;
- (D) As appropriate, person(s) who will be providing early intervention services to the child or family;
- (E) Person(s) directly involved in conducting evaluations and assessments: If this person(s) is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:
  - (i) Participating in a telephone conference call;
  - (ii) Having a knowledgeable authorized representative attend the meeting; or
  - (iii) Making pertinent records available at the meeting; and
- (F) A representative of the school district or approved cooperative who has the authority to commit resources.

010.05 PERIODIC REVIEW TEAM MEMBERS. Periodic review team members must include:

- (A) Family and family members, as requested by parent(s);
- (B) Advocate or person outside of family, as requested by parent;
- (C) Services coordinator;
- (D) As appropriate, persons directly involved in conducting any additional evaluations or assessments, and service provision for the child; and
- (E) If changes in special education or related services are proposed, a school district representative who has the authority to commit district resources.

010.06 INDIVIDUALIZED FAMILY SERVICE PLAN TEAM MEETING AND PERIODIC REVIEW For each initial and annual Individualized Family Service Plan (IFSP) team meeting and periodic review, the services coordinator must:

- (A) Arrange, conduct, and chair the Individualized Family Service Plan (IFSP) meeting with the family in a setting and at a time convenient for the family;
- (B) Provide written notice to all team members a reasonable time before the meeting. Written notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so;



(C) Ensure the meeting is conducted in the native language, or primary mode of communication, of the family;

(D) Draft the Individualized Family Service Plan (IFSP) document, which must contain the following elements;

(i) Information about the child's present levels of physical development; cognitive development; communication development; social and emotional development; and adaptive development based upon the information from the child's evaluation and assessments;

(ii) With the family's agreement, the Individualized Family Service Plan (IFSP) must include a statement of the family's priorities, concerns, and resources related to enhancing the development of the child as identified through the voluntary assessment of the family;

(iii) The measurable results or outcomes expected to be achieved for the child and family, including the criteria, procedures and timelines used to determine progress toward achieving the results or outcomes; and

(iv) Specific early intervention services to achieve the desired results or outcomes of the child and family including:

(1) Frequency;

(2) Length of time the service is provided during each session of that service;

(3) Intensity or the number of days or sessions the service is provided, and whether the service is provided on an individual or group basis;

(4) Method of delivery;

(5) The natural environments in which early intervention services will be provided;

(6) Justification of the extent, if any, to which the services will not be provided in a natural environment. The justification must be made by the Individualized Family Service Plan (IFSP) team and only when early intervention services cannot be achieved satisfactorily in a natural environment, and is based on the child's outcomes that are identified by the Individualized Family Service Plan (IFSP) team;

(7) Location where a service will be provided;

(8) Payment arrangements, if any;

(9) Projected dates for beginning of services; and

(10) Anticipated duration of those services (projecting when a given service will no longer be provided, such as when the child is expected to achieve the results or outcomes of his or her Individualized Family Service Plan (IFSP);

(v) For children who are three years of age, the Individualized Family Service Plan (IFSP) must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills;

(vi) To the extent appropriate, the Individualized Family Service Plan (IFSP) must include medical and other services that the child and the child's family may need or is receiving through other sources, but that are not required to be provided nor funded through early intervention. If those services are not currently being provided, include a description of the steps the services coordinator or family may take to assist the child and family in securing those other services. Identifying these services in the Individualized Family Service Plan (IFSP) does not impose an obligation to any specific agency to provide the services free of charge;

(vii) The name of the services coordinator who will be responsible for implementing the Individualized

Family Service Plan (IFSP), including transition services, and coordinating with other agencies and persons; and

(viii) The Individualized Family Service Plan (IFSP) must include the steps and services to be taken to support the transition of the child to preschool or other services as required in this chapter;

(E) Fully explain the contents of the Individualized Family Service Plan (IFSP) to the parent(s). The Individualized Family Service Plan (IFSP) provides for the written consent of the parent to provide services to the child and family. If the parent(s) 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. Although the parent may accept or reject any part of the early intervention services offered, the child will not receive services until the parent(s) have signed the Individualized Family Service Plan (IFSP). The early intervention services to which parental consent is obtained must be provided as soon as possible, but no later than 30 days from date of parental consent; and

(F) Distribute a written copy of the Individualized Family Service Plan (IFSP) to each person attending within seven calendar days of the meeting. Parent(s) must give specific consent for distribution of the Individualized Family Service Plan (IFSP) document to any individuals or agencies not on the Individualized Family Service Plan (IFSP) team. A written copy of the family assessment must also be distributed to the parent within seven calendar days of the Individualized Family Service Plan (IFSP) meeting.

**010.07 IMPLEMENTATION PROCEDURES.** Individualized Family Service Plan (IFSP) Implementation procedures conducted by the services coordinator must include:

(A) Assisting the child and family to gain access to, and coordinate the provision of, the early intervention services and other services identified in the Individualized Family Service Plan (IFSP) in settings most natural and within daily routines;

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

(C) Monitoring implementation of the plan as written by the team members designated on the Individualized Family Service Plan (IFSP);

(D) Advocating for the family;

(E) Coordinating, facilitating, and monitoring the delivery of services required under this part to ensure the services are provided within 30 days of parental consent; and

(F) Contacting the family at least monthly to review the progress of the Individualized Family Service Plan (IFSP) and to conduct follow-up activities to determine that appropriate early intervention services are being provided. This contact must be face-to-face contact with the family and child at least every other month.

**010.08 PROVIDER RESPONSIBILITIES.** Each agency or person who 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 Individualized Family Service Plan (IFSP); however, this does not require that any agency or person be held accountable if an eligible child or the child's family does not achieve the outcomes projected in the child's Individualized Family Service Plan (IFSP).

**011. TRANSITION PROCESS.** If a toddler with a disability may be eligible for preschool services, with the approval of the family of the toddler, the services coordinator must convene a conference among the family, team members, and school district or approved cooperative, not fewer than 90 days, and at the discretion of all parties, not more than nine months, before the toddler's third birthday to discuss any services the toddler may receive under Nebraska Department of Education regulations at 92 NAC 51.

**011.01 ANNUAL TRANSITION NOTICE.** The Annual Transition Notice must be provided to the family at the

transition conference which must contain:

- (A) A description of the rights of the parents to elect to receive early intervention services or preschool services pursuant to Nebraska Department of Education regulations at 92 NAC 51;
- (B) An explanation of the differences between early intervention services pursuant to Nebraska Department of Education regulations at 92 NAC 52 and services provided under Nebraska Department of Education regulations at 92 NAC 51;
- (C) The types of services and the locations at which the services are provided;
- (D) The procedural safeguards that apply; and
- (E) A description that the Individualized Family Service Plan (IFSP) services provided will include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children who are at least three years of age.

**011.02 ELIGIBILITY FOR OTHER SERVICES.** If a toddler is not potentially eligible for preschool services under Nebraska Department of Education regulations at 92 NAC 51, the services coordinator, with the approval of the child's family, must make reasonable efforts to convene a conference among the family, the school district or approved cooperative and providers of other appropriate services for the toddler to discuss services the toddler may receive.

**011.03 CONFERENCE REQUIREMENTS.** Any transition conference or meeting to develop the transition plan must meet the Individualized Family Service Plan (IFSP) meeting requirements in this chapter.

**011.04 TRANSITION PLAN.** The services coordinator, along with the family and Individualized Family Service Plan (IFSP) team, must ensure for each toddler with a disability, the transition plan is contained in the Individualized Family Service Plan (IFSP) not fewer than 90 days, and at the discretion of all parties, not more than nine months, before the toddler's third birthday, and includes, as appropriate:

- (A) A review of the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year;
- (B) The family in the development of the transition plan for the child;
- (C) Steps for the toddler with a disability and the toddler's family to exit from the Early Intervention Program to support the smooth transition of the toddler, to include discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition; and procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in a new setting;
- (D) Any transition services or other activities that the Individualized Family Service Plan (IFSP) team identifies as needed by the child and family;
- (E) Confirmation that information about the child has been transmitted to the designated program if parental consent was obtained; and
- (F) Transmission of additional information needed, with parental consent, to ensure continuity of services to the receiving program, including a copy of the most recent evaluation and assessments of the child and family and the most recent Individualized Family Service Plan (IFSP).

**012. FAMILY RIGHTS** The rights in this section are based on federal and state special education law and Medicaid law and regulations in addition to the Nebraska Early Intervention Act. To assure fair treatment of families within the Early Intervention Program statewide, it is important that families know their rights and that their rights are protected. See 34 CFR Part 303 and Nebraska Department of Education regulations at 92 NAC 51 and 52.

012.01 NOTIFICATION OF RIGHTS. Families must receive their rights for participation in the Early Intervention Program which include Medicaid provisions for the right to apply, the right to receive a timely response, and the right to appeal for Home and Community-Based Services (HCBS). The rights that govern the Early Intervention Program are defined in federal and state regulations (See 34 CFR 303, 465 NAC, 471 NAC, and 480 NAC).

012.02 LEGAL ASSISTANCE IN HEARING. In the case of a parent initiating hearing procedures as outlined in Nebraska Department of Education regulations at 92 NAC 52, the services coordination agency must inform the parent of any free or low-cost legal and other relevant services available in the area if the parent requests the information or if the parent initiates a hearing under Nebraska Department of Education regulations at 92 NAC 55.

012.03 NOTIFICATION OF ADVERSE DECISIONS. Persons who request, apply for, or receive Home and Community-Based Services (HCBS) may appeal any adverse action or inaction. The services coordinator must send written notice of denial, reduction, or termination of services to the child's guardian as outlined in 480 NAC 2. Notice to the child's guardian must contain:

- (A) A clear statement of the action to be taken;
- (B) A clear statement of the reason for the action;
- (C) Specific policy reference which supports such action; and
- (D) A complete statement of the guardian's right to appeal.

012.04 ELIGIBILITY HEARING. Matters regarding the eligibility for Home and Community-Based Services (HCBS) will be processed through the Department's Medicaid eligibility hearing procedures.

**013. SERVICES COORDINATION RECORDS.** Service coordination contracting agencies are responsible for maintaining early intervention records as described in this section.

013.01 CONFIDENTIALITY. Confidentiality must be maintained consistent with the following requirements:

- (A) Written parent or guardian consent must be obtained before personally identifiable information is disclosed, verbally or in writing, to anyone other than service coordination staff;
- (B) Each services coordination agency must protect the confidentiality of personally identifiable information at all stages including content of meetings, staff discussions, information collection, record storage, disclosure, and destruction. All information contained in the files or available to staff members is considered confidential;
- (C) In order to protect information about persons requesting or receiving services, the services coordination agency must store and process information in secured areas so that such information can be accessed only by authorized personnel. Adequate supervision of the secured areas must be provided to prevent unauthorized removal or loss of information;
- (D) One official at each services coordination agency must assume responsibility for insuring the confidentiality of any personally identifiable information. This official must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information;
- (E) Each services coordination agency must keep a record of persons obtaining access to the early intervention records collected, maintained, or used, including the name of the person, the date access was given, and the purpose for which the person is authorized to use the records. This record keeping requirement does not apply to access by parents or authorized staff members of the agency;
- (F) When a release is signed so that confidential records can be disclosed, the release must, in the parent's native language or other mode of communication:

- (i) Fully inform parents of their rights to refuse to sign and the consequences of failure to sign;
- (ii) List agencies and individuals who may receive information and specify the type of information for each and for what purpose;
- (iii) Allow parents to limit both the information released and to whom it may be released;
- (iv) Inform parents that they may revoke consent at any time; and
- (v) Provide a time limit on consent;

(G) Parents must be given the opportunity to inspect and review records relating to screening, evaluations and assessments, eligibility determinations, development and implementation of Individualized Family Services Plans (IFSPs), provision of early intervention services, individual complaints dealing with the child, and any other aspect of the Early Intervention Program involving records about the child and the child's family with the exception of child protective services and foster care records. Parents have the right to have the information in records explained and interpreted by a professional staff person and in their primary mode of communication. Agencies must comply with a parent's request to inspect and review records without unnecessary delay and before any Individualized Family Service Plan (IFSP) meeting or hearing and in no case more than 10 days after the request has been made;

(H) Parents must be provided a list of the types and locations of early intervention services coordination records collected, maintained, or used by the services coordination agency, upon parental request;

(I) As a child transitions out of the Early Intervention Program, records having to do with family goals and not pertinent to the child's education and related services do not follow the child and do not become part of the educational record of the child. Rather, they are kept in confidential storage in the Early Intervention Program and destroyed after six years with other records or destroyed at the request of the parents;

(J) Parents have the right to copies of their child's records but there may be a reasonable copying charge for this;

(K) Parents have the right to have someone they choose inspect and review the records;

(L) Parents have the right to ask that early intervention records be changed if they believe that information in the records is inaccurate or misleading or violates the privacy or other rights of their child or family. The right to request a change in the records includes:

- (i) The right to be informed if the agency refuses to change the information as requested;
- (ii) The right to a hearing on the refusal to change the record; and
- (iii) The right to include an explanation of the family's statement of disagreement if the agency refuses to change the record. This statement must be kept with the portion of the record the family disagrees with and included with any request to see the record; and

(M) Parents have the right to be informed when personally identifiable information is no longer needed to provide early intervention services to their child or family. They then have the right to ask that information in the early intervention record be destroyed; however, a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of services coordinator(s) and early intervention service provider(s), and exit data, including year and age upon exit and any programs entered into upon exiting, may be maintained without time limitation.

**013.02 RETENTION AND DESTRUCTION.** The services coordination agency must:

- (A) Retain the early intervention records for six years after the completion of the activities for which early

intervention funds were used. If an audit or appeal is in progress, the Department of Health and Human Services or the Nebraska Department of Education may direct that records be retained beyond six years;

(B) Make reasonable effort to locate and notify parents before records are destroyed; and

(C) Destroy records using a method that ensures that no personally identifiable information remains accessible.

**014. NOTIFICATION IN NATIVE LANGUAGE** All notices must be written in language understandable to the general public and in the family's native language, including the following considerations, unless clearly not feasible to do so.

**014.01 EXPLANATION OF SERVICES.** The services coordinator explains to the family, in a way that they can understand, what the Early Intervention Program has to offer and the process for determining eligibility under early intervention. If the native language or other mode of communication of the parent is not a written language, the services coordinator must take steps to ensure that

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

(B) The parent understands the notice; and

(C) There is written evidence that these requirements have been met.

**014.02 FAMILY RIGHTS.** Families must be provided written notice of their right to a timely, comprehensive, multidisciplinary evaluation for the child, including assessment activities related to the child, and, if eligible, the provision of appropriate early intervention services.

**014.03 SERVICE PLAN MEETING NOTICE.** Families must be provided written notice of Individualized Family Service Plan (IFSP) meetings with adequate time for them to make arrangements to attend. These meetings should be arranged around the family's ability to attend.

**015. CONSENT.** Families have the right to informed consent in the Early Intervention Program which includes:

(A) Families have the right to be fully informed of all information about the activity for which consent is sought in their native language or other means of communication;

(B) Families have the right to know that consent is voluntary and may be withdrawn at any time;

(C) Families have the right to accept or refuse any or all early intervention services without losing the remaining early intervention services. The Individualized Family Service Plan (IFSP) provides written notice of the appropriate services which will be provided to the child and family;

(D) Families must give written consent before:

(i) The first screening, evaluation and assessment of the child and any later evaluation; and

(ii) Implementation of early intervention services as part of the Individualized Family Service Plan (IFSP). The Individualized Family Service Plan (IFSP) provides for the written consent of the family to provide services to the child and family. Although the family may accept or reject any part of the early intervention services offered, the child will not receive services until the parents have provided written consent for the service(s) on the Individualized Family Service Plan (IFSP).

**016. SURROGATE PARENTS** A surrogate parent has the same rights as a parent for all purposes under this regulation. No state employee, or anyone providing services to the child or the child's family member, nor any person who has a personal or professional interest that conflicts with the interest of the child he or she represents may act as a surrogate. Appointment of a surrogate is outlined in Nebraska Department of Education regulations at 92 NAC 52.

**017. FORMS.** All forms utilized in the Early Intervention Program are state-mandated to ensure consistency and

adherence to family rights and all laws and regulations that govern the Program.

**018. COMPLAINT PROCEDURES.** An individual or organization may file a written signed complaint regarding the violation of the provision of services coordination and the Individualized Family Service Plan (IFSP) entitled under the Nebraska Early Intervention Act.

**018.01 SUBMISSION.** Complaints must be submitted to the Nebraska Department of Education, Special Education Office, in writing. The written, signed complaint must contain an explanation of specific information relating to the possible violation. Special accommodation will be made, if writing is a barrier. Contact the Special Education Office in person or by telephone to make arrangements.

**018.02 SERVICE COORDINATION VIOLATION.** If the complaint can be determined to be related to a violation of the provision of services coordination and the Individualized Family Service Plan (IFSP), the following procedures will be carried out. The Nebraska Department of Education and the Department of Health and Human Services will notify in writing the individual or organization filing the complaint and the applicable services coordination agency the complaint has been received. This written notification to the services coordination agency will include a copy of the complaint, substance of the alleged violation, and timelines for response. The services coordination agency has 14 calendar days to submit a written response.

**018.03 INVESTIGATION.** The Nebraska Department of Education and Department of Health and Human Services will investigate each complaint received from an individual or organization to determine whether there has been a failure to comply with these regulations and may require further written or oral submission of information by all parties and may conduct an independent on-site investigation, if necessary.

**018.04 REVIEW.** Within 60 calendar days of receipt of a signed written complaint, the Nebraska Department of Education and Department of Health and Human Services will review all relevant information and provide written notification of findings of facts and conclusions and the basis for such findings to all parties involved.

**018.05 EXTENUATING CIRCUMSTANCES.** If, as a result of extenuating circumstances the Nebraska Department of Education and Department of Health and Human Services are not able to complete the investigation within the 60 calendar days, an extension will be implemented. The Nebraska Department of Education and Department of Health and Human Services will notify the person or organization filing the complaint and the service coordination agency of the extension.

**018.06 FAILURE TO COMPLY.** If it is determined there has been a failure to comply, there will be included in the notification of findings the specific steps which must be taken by the services coordination agency to bring the agency into compliance including technical assistance, negotiations and corrective actions. The notification must also set forth a reasonable period of time to voluntarily comply.

**019. SERVICES COORDINATION PROVIDERS.** All services coordination agencies must complete all required steps to become an enrolled Medicaid provider. The services coordination agency must follow all requirements, provisions and scope of services as set forth in NAC Titles 465, 471, and 480.

**019.01 SUBCONTRACT AUTHORIZATION.** Written authorization is required for subcontracting for services coordination services with another agency. The services coordination agency must assure that all subcontractors meet the requirements set forth in the services coordination agreement or contract.

**019.02 MONITORING.** The co-lead agencies are responsible for monitoring the Early Intervention Program which will occur on a cyclical basis to ensure adherence to all rules and regulations governing the Program.

**019.03 NO ADVOCACY.** The family has the right to appeal, however the services coordinator must not provide assistance nor serve as advocate or representative in any adverse issue related to Medicaid or these regulations.