

# Clarification: Family Centered Early Intervention Services



The Early Development Network Co-Lead Agencies, Nebraska Departments of Education and Health and Human Services, provide this clarification document in response to recent monitoring activities conducted with PRTs in the implementation of IDEA Part C evaluation, assessment, IFSP meetings, and service delivery procedures. This clarification document does not impose any additional requirements beyond those included in applicable law and regulations.

The EDN Co-lead agencies are aware of instances of untimely delays, or refusal of the provision of family-centered, early intervention procedures as regulatorily required due to districts and services coordination agencies requiring families to receive early intervention evaluations, assessments, meetings, and services during specific hours of the business day, i.e., 8 a.m. - 4 p.m. School districts and EDN services coordination agencies are required to provide family-centered, culturally competent, responsive, and equitable early intervention services/procedures which are responsive, flexible, integrated, and accessible to infants/toddlers and their families in a timely manner, consistent with all applicable federal and state regulations, statutes, procedures, and timelines. Furthermore, the Nebraska Early Intervention Act, 43-2502.03, requires early intervention programs and services to be **family-centered** and must recognize and support the role of parents **through family-friendly criteria** in planning their **structure, services, staffing, and delivery**.

Early intervention procedures, including evaluations, assessments, meetings, and services, must be conducted in settings and at times convenient to families. Early intervention programs and providers cannot ask families to take time off work or meet at a public location over their lunch hour at the convenience of the provider to receive early intervention procedures or conduct meetings. School districts, services coordination agencies, and early intervention providers may not develop or implement policies or procedures limiting the availability of federally required early intervention procedures/services to families or engage in practices which would constitute FERPA and HIPAA violations. All early intervention procedures, services, and meetings must be provided at the convenience of the family's schedule within reason. For instance, it is not the intent of the Co-Leads to infer that early intervention services should be provided late at night or on holidays. However, if the family requests to conduct a meeting or to receive early intervention services at 6 p.m. due to working until 5 p.m., then this would not be unreasonable, and the provider(s) would be expected to accommodate this. This ensures systemic equity and cultural awareness/responsiveness for working families who, for example, are employed during typical business hours of Monday-Friday, or who work various shifts as emergency/first responders, medical/health professionals, in agricultural professions, etc.

Early Intervention does not adhere to a traditional 8-4 schedule due to the statutory and regulatory requirements related to family-centeredness/involvement and equity as outlined above. Early intervention services and programming are also provided continuously and at the convenience of the family – not based on a school's or agency's calendar or business hours, per federal/state IDEA regulations and Nebraska statute. However, there is nothing to suggest or require that early intervention providers should be required to work unreasonable hours, such as late at night or on holidays.

Parents have the right to exercise the Dispute Resolution procedures available under IDEA Part C for any delay or denial of receipt of early intervention procedures or services due to a district's or services coordination agency's refusal to provide such procedures and/or services in accordance with federal and state regulatory requirements. It is the regulatory required duty of the Services Coordinator to inform the family of their rights and dispute resolution process options. The Services Coordinator must document this activity in the monthly CONNECT narrative.

The Co-Lead agencies will exercise Monitoring and Enforcement actions as authorized by applicable federal and state regulations, policies, and statutes to ensure regulatory adherence by early intervention programs and providers.

The applicable statutes and regulations include:

## State Statute - Nebraska Early Intervention Act

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### 43-2502.03

The Legislature declares that it shall be the policy of the State of Nebraska to promote the development of a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent services for children and their families to assure that services help build strong families and provide appropriate environments, prenatally and for children from birth through their early years in programs and services, which are:

- **Family-centered**, recognizing that parents have the primary responsibility for their children's development and learning, and that programs must recognize and **support the role of parents through family-friendly criteria in planning their structure, services, staffing, and delivery;**
- Comprehensive, recognizing that services must include attention to all aspects of the child and family and address needed health and nutrition, education, family support, and social services. **Such a service system should allow families to choose the services they need with minimal costs and requirements;**
- Quality, recognizing that outcomes for children in the early years are strengthened when programs and services display indicators of quality, including developmentally appropriate practices, **extensive family involvement**, trained staff, and **culturally responsive approaches.**
- **Equitable**, recognizing that program practices strive for potential achievement of all children, including children from minority groups, with disabilities, from less advantaged backgrounds, and from less populated geographic areas.

### 43-2502.04

The Legislature further declares that it shall be the policy of the State of Nebraska, through the implementation of the Early Intervention Act, to promote, facilitate, and support:

**Service systems which are responsive, flexible, integrated, and accessible to children and their families;**

Maximum impact of prevention and early intervention, **encouraging and supporting active parent and family partnership in all programs and services.**

# IDEA Part C Regulations

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## 34 CFR 303.342d Accessibility and convenience of meetings.

1. IFSP meetings must be conducted --
  - a. **In settings and at times that are convenient for the family;**
2. **Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.**

## 34 FR 303.13 Early Intervention Services means developmental services that —

Are provided under public supervision;

Are selected in collaboration with parents;

**Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;**

## 34 CFR 303.34

1. Service Coordination Services
  - a. Service coordination is an active, ongoing process that involves—
    - i. **Assisting parents** of infants and toddlers with disabilities **in gaining access to, and coordinating the provision of, the early intervention services** required under this part;
2. Specific service coordination services.

Service coordination services include—

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

## 34 CFR 303.121 Policy for contracting or otherwise arranging for services.

Each system must include a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to **provide early intervention services in the State, consistent with the provisions of part C of the Act.** The policy must—

1. **Include a requirement that all early intervention services must meet State standards and be consistent with the provisions of this part;** and
2. **Be consistent with** the Education Department General Administrative Regulations (**EDGAR**) in 34 CFR part 80.

## 34 CFR 303.212 Additional information and assurances.

Each state's application for Part C Funding must contain—

1. **A description of the steps the State is taking to ensure equitable access to, and equitable participation in, the part C statewide system as required by section 427(b) of GEPA;**

### 34 CFR 303.227 Traditionally underserved groups.

The State must ensure that **policies and practices have been adopted to ensure—**

That **traditionally underserved groups**, including minority, low-income, homeless, and rural families **have access to culturally competent services within their local geographical areas.**

## Section 427 of the General Education Provisions Act (GEPA)

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Section 427 of the General Education Provisions Act (GEPA) requires a description of how the State has identified barriers and developed strategies to address the barriers and has provided **a description of the steps the State is taking to ensure equitable access to, and participation in, Part C.** (34 CFR §303.212(a)).

**States, LEA's, and Services Coordination agencies must have mission, policies, or commitments to ensure equitable access to, and equitable participation in Part C.** States, LEA's, and Services Coordination agencies **must identify barriers that may impede equitable access and participation, and implement steps to address such barriers to ensure equitable access and participation in Part C.**

## NDE 92 NAC 52 (Rule 52)

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### Rule 52-001 Declaration of Responsibility

Neb. Rev. Stat. §43-2507 requires planning for FAPE early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide FAPE early intervention services program of comprehensive, coordinated, **family-centered**, community based, and **culturally competent** FAPE early intervention services **to all eligible infants or toddlers with disabilities and their families in Nebraska.**

### 52-003.06 Early Intervention Services

003.06A Early intervention services means developmental services that --

003.06A1 Are provided under public supervision;

003.06A2 Are selected in collaboration with parents;

003.06A5 **Meet the standards of the State in which the early intervention services are provided, including the requirements of Part C of the IDEA;**

### 52-007.07 Year Round Continuous Services

007.07A **FAPE early intervention services provided by the school district or approved cooperative may not be interrupted or modified or otherwise changed for reasons unrelated to the child's needs such as service provider availability or scheduling.**

## DHHS 480 NAC 1

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### **480 NAC 1-010.06 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:

- 1. 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;**

### **480 NAC 1-010.07 IMPLEMENTATION PROCEDURES.**

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

- 1. 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;**

### **480 NAC 1-014.03 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.**