

## **North Carolina Infant Toddler Program: Proposed Policy Changes**

The North Carolina Infant-Toddler Program (ITP) is also called the Part C Program or Early Intervention Program. The Program serves children birth to three years old who have, or are at established risk for developmental disabilities or delays. The ITP serves children through its Children's Developmental Services Agencies (CDSA). The program serves all 100 counties statewide.

The Individuals with Disabilities Education Act (IDEA) under Part C governs the ITP. The federal government released revised regulations in September 2011. These revisions will help to improve early intervention services and outcomes for infants and toddlers with disabilities. States are required to make policy changes to reflect this revision.

The table below shows the ITP policies affected by the revision. All comments on the proposed language will be reviewed. The table outlines current ITP policy language and proposed changes to align with federal policy. Proposed language or definitions that are used across several policies will appear in all where they are discussed. Policy changes will occur after federal approvals are received.

**Review** of the proposed changes is February 10 - March 10, 2012. **Comments** may be made March 11 - April 9, 2012.

You may comment by either of the following ways:

- *Email*: [ei.publiccomment@dhhs.nc.gov](mailto:ei.publiccomment@dhhs.nc.gov);
- *Fax*: Part C Coordinator at 919-870-4834;
- *Letter*: c/o Part C Coordinator, Early Intervention Branch, 1916 Mail Service Center, Raleigh, N.C. 27699-1916; or
- *Public hearings*: Wednesday, **March 21, 2012, 4:30 pm – 6:30 pm**, 5605 Six Forks Road, **Raleigh**, NC, Cardinal Room **and** Thursday, **March 29, 2012, 4:00 pm – 6:00 pm**; 517 West Fleming Drive, **Morganton**, N.C., N.C. School for the Deaf Chapel Basement.

Thank you for your review and comments regarding the proposed changes.

Policy Bulletin 3 – <a href="#">Parents</a>	
Current Policy Language	Proposed Change
<p>The definition for “parent” includes:</p> <ul style="list-style-type: none"> <li>• a natural or adoptive parent, a legal guardian (other than the county Department of Social Services)</li> <li>• a natural or adoptive parent or a legal guardian, a person acting in the place of a parent or “in loco parentis” (e.g., a grandparent, stepparent, another relative, a friend of the family with whom the child lives)</li> </ul>	<ul style="list-style-type: none"> <li>• a biological, adoptive or foster parent, a guardian generally authorized to act as the child’s parent, or authorized to make early intervention, educational, health or developmental decisions for the child (but not the State if the child is a ward of the State)</li> <li>• a biological, adoptive parent, foster parent or a legal guardian, a person acting in the place of a parent or “in loco parentis” (e.g., a grandparent, stepparent, another relative, a friend of the family who is legally responsible for the child’s welfare)</li> </ul>
No reference in current policy	The foster parent will act as parent unless the foster parent has a personal or professional interest that conflicts with the interest of the child he or she represents (e.g., paid therapeutic foster parents, group therapeutic foster homes) or unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent.
No reference in current policy	When a judicial decree specifies a person or persons to act as parent of a child or to make educational or early intervention service decisions on behalf of a child, then the person or persons must be determined to be the “parent”, except that if an early intervention service provider or a public agency provides any services to a child or any family member of that child, that provider or public agency may not act as the parent for that child.

Policy Bulletin 4 – <a href="#">Infant-Toddler Program Service Coordination</a>	
Current Policy Language	Proposed Change
No reference in current policy	Service coordination also includes coordinating funding sources for early intervention services required under Part C of the Individuals with Disabilities Education Act.

Policy Bulletin 5 – <a href="#">Service Providers</a>	
Current Policy Language	Proposed Change
A public or private agency or professional that receives public funds and provides early intervention services for an eligible child and the child’s family. All agencies, programs, and individual service providers that receive public funds are considered participating agencies.	Participating agencies include the lead agency and Early Intervention Services (EIS) providers, and any individual or entity that provides any Part C services, but does not include primary referral sources, or public agencies or private entities that act solely as funding sources for Part C services.

Policy Bulletin 9 - <a href="#">Notification of Child and Family Rights</a>	
Current Policy Language	Proposed Change
Includes that: Notification of Infant-Toddler Program rights must be provided during initial contacts with the family when the Infant-Toddler Program is being explained and families are asked to give permission for eligibility determination;	Notification of Infant-Toddler Program rights must be provided at referral for all children.
No reference in current policy	The notice must include a description of the extent that the notice is provided in the native languages of the various population groups in the State.

Policy Bulletin 11 – <a href="#">Confidentiality</a>	
Current Policy Language	Proposed Change
No reference in current policy	Personally identifiable information includes, but is not limited to: (a) The child’s name; (b) The name of the child’s parent or other family member; (c) The address of the child or child’s family; (d) A personal identifier, such as the child’s social security number or child number; (e) A list of personal characteristics that would make the child’s identity easily traceable; or (f) Other information that would make the child’s identity easily traceable.

Policy Bulletin 13 – <a href="#">Written Prior Notice</a>	
Current Policy Language	Proposed Change
Written Prior Notice is required before the meeting where eligibility will be determined.	Written Prior Notice is required for eligibility determination, including the determination that a child is not eligible.
Requires written prior notice to be given to parents at least ten (10) calendar days prior to proposing to or refusing to initiate or change the identification, evaluation or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant’s or toddler’s family.	Written prior notice must be provided in a reasonable time to parents prior to the proposed action.

Policy Bulletin 15 – <a href="#">Parent Access and Amendment Rights</a>	
Current Policy Language	Proposed Change
No reference in current policy	The CDSA is required to make available to parents an initial copy of the child’s early intervention record, at no cost to the parents.
A parent has the right to inspect and review records within 7 calendar days of written request and prior to any IFSP meeting or hearing. If copies of records are needed for review, the copies must be provided within 7 days.	A parent has the right to inspect and review records within 10 calendar days of the parent’s written request and prior to any IFSP meeting or hearing. If copies of records are needed for review, the copies must be provided to the parent within 10 calendar days.

Policy Bulletin 16 – <a href="#">Surrogate Parents</a>	
Current Policy Language	Proposed Change
A Surrogate Parent is appointed within 7 calendar days of a need being identified.	A Surrogate Parent must be appointed within 30 calendar days of a need being identified.
A surrogate parent must be appointed in certain instances, including when: <ul style="list-style-type: none"> <li>• the child is a ward of the state under the laws of the state.</li> </ul>	The child is a ward of the state under the laws of the state, and does not have a foster parent who meets the definition of parent.
No reference in current policy	Consultation with the county Department of Social Services (DSS) is required when assigning a surrogate parent.
No reference in current policy	A surrogate parent for a child who is a ward of the State may be appointed by a judge, if all other requirements are met.
A person appointed as a surrogate parent must meet certain criteria, including not being an employee of any agency involved in the provision of early intervention or other services for the child, including the county Department of Social Services.	<p>Qualifications of Surrogate Parents</p> <p>A person appointed as a surrogate parent must meet certain criteria. These criteria include not being an employee of any agency involved in the provision of early intervention or other services for the child or any family member of the child.</p>

Policy Bulletin 19 - <a href="#">Referral</a>	
Current Policy Language	Proposed Change
Referral sources are required to make referrals within two (2) working days of identifying children who may be eligible.	Referral sources are required to make referrals within seven (7) working days of identifying children who may be potentially eligible for the Infant Toddler Program.

Policy Bulletin 20 – <a href="#">Eligibility Determination</a>	
Current Policy Language	Proposed Change
No reference in current policy	However, in no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility. Informed clinical opinion must be used when conducting evaluations and assessments for any child.

Policy Bulletin 21 – <a href="#">Evaluations and Assessments</a>	
Current Policy Language	Proposed Change
No reference in current policy	<p>The CDSA may screen children who are referred based on suspected developmental delays. If the screening or other available information indicates that the child is suspected of having a disability, the CDSA must proceed with an initial evaluation and an initial assessment, and all requirements of the 45 day timeline must be met. If the screening or other available information indicates that the child is not suspected of having a disability, the CDSA must ensure that notice of that determination is provided to the parent and that the notice describes the parent’s right to request an evaluation.</p> <p>For screening, the CDSA must:</p> <ol style="list-style-type: none"> <li>1. Obtain written parental consent prior to conducting the screening,</li> <li>2. Provide the parent with written prior notice regarding the intent to screen and notifying the parent of the right to proceed with an initial evaluation at any time during the screening process, and</li> <li>3. Administer the screening using appropriate instruments by personnel trained to administer those instruments.</li> </ol>
Description of social-emotional	Social development and emotional development are two distinct developmental areas, and evaluation, assessment, or service needs can be addressed in either or both areas for an individual child.
Descriptions of evaluation	<p>Evaluation means the procedures used by qualified personnel to determine a child’s initial and continuing eligibility.</p> <p>Evaluations refer to the child’s evaluation to determine his or her eligibility for the Infant Toddler Program. When a child is first referred, an evaluation is required if eligibility cannot be established through review of medical or other records. The evaluation must include: Administering an approved evaluation instrument; taking the child’s history (including interviewing the parent), identifying the child’s level of functioning in each of the developmental areas; gathering information from other sources such as family members, other caregivers, medical providers, social workers and educators, if necessary to understand the full scope of the child’s strengths and needs; and reviewing medical, educational or other records. As a child continues in the Program, if his continued eligibility is questioned, an evaluation is performed to determine continuing eligibility.</p>

Policy Bulletin 21 – <a href="#">Evaluations and Assessments</a> (continued)	
Current Policy Language	Proposed Change
Evaluations must involve at least two persons, each representing a different discipline or profession.	In addition, evaluations may include one individual who is qualified in more than one discipline.
Descriptions of assessment	<p>Assessment means the ongoing procedures used by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility and includes the assessment of the child.</p> <p>Initial Assessment refers to the assessment of the child, and to the family assessment conducted prior to the child's first Individualized Family Service Plan (IFSP) meeting. Initial Assessments are required for all children who are determined to be eligible, must occur prior to IFSP development, and can occur simultaneously with the initial evaluation (if applicable):</p> <p>Child Assessment must include:</p> <ul style="list-style-type: none"> <li>• Review of results of initial evaluation (if conducted for eligibility determination),</li> <li>• Personal observations of the child, and</li> <li>• Identification of the child's needs in each of the developmental areas.</li> </ul> <p>Family Assessment must be:</p> <ul style="list-style-type: none"> <li>• Voluntary for the family, and if conducted, must include: <ul style="list-style-type: none"> <li>○ Information obtained through an assessment tool</li> <li>○ Interview with family members,</li> <li>○ Family's description of concerns, priorities and resources.</li> </ul> </li> </ul> <p>Ongoing Assessments: procedures used to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs throughout the child's eligibility. Ongoing assessments are a component of service delivery.</p>
All evaluation procedures must be administered in the native language or other mode of communication of the child and family.	Evaluations and child assessments should be conducted using the language normally used by the child if determined developmentally appropriate by the professional conducting the evaluation or assessment.

Policy Bulletin 22 - <a href="#">Services</a>	
Current Policy Language	Proposed Change
Audiological Services include provision of auditory training, aural rehabilitation, speech reading, signed language and cued language, listening device orientation and training, and other services.	Audiological Services include: provision of auditory training, aural rehabilitation, speech reading, listening device orientation and training, and other services.  Sign language and cued language services include teaching sign language, cued language, and auditory/oral language, providing oral transliteration services (such as amplification), and providing sign and cued language interpretation.
Speech Language Therapy	Speech Language Pathology Services
No reference in current policy	Health Services do not include: <ul style="list-style-type: none"> <li>services related to optimizations (e.g., mapping) of surgically implanted medical devices; however, nothing in this policy limits the right of an infant or toddler with a disability with “a surgically implanted device” to receive the services identified on the child’s IFSP, or prevents the early intervention service provider from routinely checking that either the hearing aid or the external components of a surgically implanted device (e.g., cochlear implant) of an infant or toddler with a disability are functioning properly</li> <li>devices (such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps) necessary to control or treat a medical condition</li> </ul>
Descriptions of early identification, screening, evaluations and assessments as services	Early identification, screening, evaluations and assessments are considered a function of the program rather than a specific service. These functions will be specifically defined under other early intervention services

Policy Bulletin 25 – <a href="#">Individualized Family Service Plans (IFSPs)</a>	
Current Policy Language	Proposed Change
Individualized Family Service Plans are to be developed jointly by the Individualized Family Service Plan team, which includes the parent and service providers.	The IFSP Team must include the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator.
Efforts to contact the parent, provide assistance, engage the parent in the referral, evaluation, eligibility determination, or Individualized Family Service Plan development process should be documented. Agencies will not be held responsible if parents cannot be located or consistently do not respond to reasonable attempts to contact them. Documentation of efforts is to be made	Efforts to contact the parent, provide assistance, engage the parent in referral, screening, evaluation, eligibility determination or the IFSP process should be documented. Exceptional circumstances to clarify that the 45 day timeline is not met may include: <ul style="list-style-type: none"> <li>the parent has not provided consent for screening, initial evaluation or initial assessment of the child</li> <li>the child or parent is unavailable to complete screening, initial evaluation or initial assessment, or IFSP meeting</li> </ul>

in the Service Coordinator's agency record of the child. A copy of any notes regarding timelines must be filed in the Children's Developmental Services Agency's record on the child at the time of the notation.

Policy Bulletin 25 – [Individualized Family Service Plans \(IFSPs\)](#) (continued)

Current Policy Language	Proposed Change
<p>The start date of the Individualized Family Service Plan is the date the parent signs the initial Plan.</p>	<p>The start date of the Individualized Family Service Plan is the date of the initial IFSP meeting.</p>
<p>Content Requirements for the Individualized Family Service Plan include:            A description of the child's present health status and, based on professionally acceptable objective criteria, a description of the child's level of development in the following areas:            a. cognitive development;            b. physical development, including gross and fine motor function, vision, and hearing;            c. communication development;            d. social-emotional development, and            e. adaptive development.</p> <p>The projected initiation dates of identified services and the anticipated length, duration, and frequency of those services.</p> <p>The steps to be taken to support the transition of all the children leaving the Infant-Toddler Program.</p>	<p>Content Requirements for the Individualized Family Service Plan include:            A description of the child's present health status and, based on the information from that child's evaluation and assessments conducted, a description of the child's level of development in the following areas:            a. cognitive development;            b. physical development, including gross and fine motor function, vision, and hearing;            c. communication development;            d. social and/or emotional development, and            e. adaptive development.</p> <p>The projected initiation dates of identified services and the anticipated length, duration, frequency, intensity, and method of delivering the early intervention services.</p> <p>The steps and services to be taken to support the transition of all the children leaving the Infant-Toddler Program and confirmation that child find information about the child has been transmitted to the LEA or other relevant agency. The Early Invention Branch Central Office provides child find notification to the Department of Public Instruction (DPI) and the CDSAs provide child find notification to the local school system.</p>

Policy Bulletin 28 – [Transition from the Infant-Toddler Program](#)

Current Policy Language	Proposed Change
<p>Transition and child find activities are allowed to occur on or before the child's second birthday.</p>	<p>Transition activities, including child find notification, should occur between the child's ages of 2.3 and 2.9 years. Any meeting to develop the transition plan and/or to conduct the Transition Planning Conference (TPC) must meet the accessibility, convenience, consent, and participant requirements for IFSP meetings; the two meetings can be combined. If a child is referred 135 days or less before the child's third birthday, and the child is determined eligible more than 45</p>

but less than 90 days before the child’s third birthday, child find notification to DPI and the local school system is required as soon as possible. If the child is referred fewer than 45 days before the child’s third birthday; the program, with parental consent, refers the toddler to DPI and the local school system. The CDSA is not required to conduct an evaluation, assessment, or develop an IFSP when the child is referred fewer than 45 days before the child’s third birthday.

Policy Bulletin 17 - [Mediation and Administrative Due Process](#)  
 Policy Bulletin 33 - [State Complaint Resolution System Infant-Toddler Program](#)

Current Policy	Proposed Change
Current policies are Bulletin 17 and Bulletin 33.	Dispute Resolution will be combined into one policy bulletin.
Description of State dispute resolution options	<p>An organization or individual may file a written complaint. These disputes may affect a single child or the child’s family, or the Early Intervention System, but not interagency disputes. The child and family have to continue to receive the appropriate early intervention services as identified in the IFSP and consented to by the parent.</p> <p>A parent who has a dispute regarding the Infant Toddler Program may file a state complaint, seek mediation or a request for a due process hearing.</p> <ul style="list-style-type: none"> <li>• A state complaint has a 60 day timeline for resolution unless an extension is granted,</li> <li>• A request for a due process hearing has a 30 day timeline for resolution unless an extension is granted.</li> <li>• There is no specific timeline for mediation</li> </ul>
Filing a State Complaint and notifying parties of the Complaint	<p>The alleged violation associated with the dispute filed by the organization or individual must be a violation of Part C of the Individuals with Disabilities Education Act, and must have occurred no more than one year before the date that the complaint or request for due process hearing is received by the Early Intervention Branch of the Division of Public Health.</p> <p>When filing a dispute, the parent must include in writing:</p> <ul style="list-style-type: none"> <li>• the name and address of the child;</li> <li>• the name and address of the parent;</li> <li>• a statement regarding whether the filing is a complaint or is a request for a due process hearing,</li> <li>• the name and address of the agency or service provider against whom the complaint is made;</li> <li>• a statement of facts describing the nature of the complaint,</li> <li>• a description of the parent’s proposed resolution,</li> <li>• the signature of the parent making the complaint,</li> <li>• the date of that the complaint was signed by the parent.</li> </ul> <p>The organization or individual filing the dispute must forward a copy to the Children’s Developmental Services Agency, and if the dispute is against a provider serving the child, to the provider, at the same time that the party files the complaint with the Early Intervention Branch.</p>

Policy Bulletin 17 - [Mediation and Administrative Due Process](#)

Policy Bulletin 33 - [State Complaint Resolution System Infant-Toddler Program](#) (continued)

<b>Current Policy</b>	<b>Proposed Change</b>
<p>Current policies are Bulletin 17 and Bulletin 33.</p> <p>Responses regarding a Complaint</p>	<p>Dispute Resolution will be combined into one policy bulletin.</p> <p>Upon receipt of a State Complaint or a request for a due process hearing, the Early Intervention Branch of the Division of Public Health must contact the parent, organization or individual. This contact serves to: 1) acknowledge receipt of the complaint, 2) explain the rights regarding complaints or due process requests and the attendant timelines, and 3) seek resolution.</p> <p>The Early Intervention Branch must provide the complainant with a timely resolution of the complaint through, mediation, state complaint resolution or due process hearing and within the required timelines.</p> <p>In resolving a dispute in which it is determined that there was a failure to provide appropriate services, the Early Intervention Branch of the Division of Public Health must address how to remediate the denial of those services, including, as appropriate, compensatory services, the awarding of monetary reimbursement, or other corrective action appropriate to the needs of the child and the child's family. The Early Intervention Branch is responsible for providing hearing officers for due process requests, and meeting all federal and state requirements regarding the appointment of hearing officers. Resolution may be gained through mediation. The Early Intervention Branch is responsible for providing mediation if the parent agrees to engage in this voluntary process. No specific timeline requirements are associated with mediation. Any session of the mediation process is to be scheduled in a timely manner and held in a location that is convenient to the parent and to the representative of the Early Intervention Branch.</p>
<p>Extensions of dispute timelines</p>	<p><u>State Complaint Resolution</u></p> <p>The Early Intervention Branch must permit a timeline extension if:</p> <ul style="list-style-type: none"><li>• an exceptional circumstance exist with respect to the complaint; or</li><li>• if the parent, individual or organization who has filed the complaint and the Early Intervention Branch agree in writing to extend the timeline by a specific amount of time in order to engage (or continue to engage) in mediation.</li></ul> <p><u>Due Process</u></p> <p>A hearing officer may grant specific extensions of time at the request of either the complainant or the Early Intervention Branch.</p>

Policy Bulletin 23- <a href="#">Fees Billing and Reimbursement</a>	
Current Policy Language	Proposed Change
Authorized family consent must be given prior to billing private insurance for any early intervention services on the IFSP.	Authorized family consent must be obtained prior to billing private insurance for any early intervention services on the IFSP; and each time consent for services is required due to an increase (in frequency, length, duration, or intensity) in the provision of services in the child's IFSP.
The introduction section of this policy bulletin contains language on use of Part C funds.	<p>Add language in the introduction section related to ensuring the use of funds as an ITP responsibility to include the following:</p> <ul style="list-style-type: none"> <li>• to ensure funds under this part are used for activities that are reasonable and necessary for implementing the State's early intervention program; and</li> <li>• to ensure Part C funds used for direct early intervention services for infants and toddlers with disabilities and their families are not otherwise funded through other public or private sources</li> </ul>
The ITP Manual Bulletin #23 does not contain language specific to the use of <u>public benefits</u> or public insurance regarding a need to obtain consent or regarding written notifications provided to families.	<p>With regard to using the public benefits or public insurance (i.e. Medicaid) of a child or parent to pay for Part C services, the State:</p> <ul style="list-style-type: none"> <li>• May not require a parent to sign up for or enroll in public benefits or insurance programs as a condition of receiving Part C services and must obtain consent prior to using the public benefits or insurance of a child or parent if that child or parent is not already enrolled in such a program;</li> <li>• Must obtain consent to use a child's or parent's public benefits or insurance to pay for Part C services if that using these benefits would-- <ul style="list-style-type: none"> <li>a) Decrease available lifetime coverage or any other insured benefit for that child or parent under that program;</li> <li>b) Result in the child's parents paying for services that would otherwise be covered by the public benefits or insurance program;</li> <li>c) Result in any increase in premiums or discontinuation of public benefits or insurance for that child or that child's parents; or</li> <li>d) Risk loss of eligibility for the child or that child's parents for home and community-based waivers based on aggregate health-related expenditures.</li> </ul> </li> </ul> <p>Prior to using a child's or parent's public benefits or insurance to pay for Part C services, the State must provide written notification to the child's parents.</p> <p>The notification must include--</p> <ul style="list-style-type: none"> <li>• A statement that parental consent must be obtained before the early intervention program discloses, for billing purposes, a child's personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (i.e., Medicaid);</li> </ul>

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|  | <ul style="list-style-type: none"><li>• A statement of the no-cost protection provisions and that if the parent does not provide the consent, the early intervention program must still make available those Part C services on the IFSP for which the parent has provided consent;</li><li>• A statement that the parents have the right to withdraw their consent to disclosure of personally identifiable information to the State public agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and</li><li>• A statement of the general categories of costs that the parent would incur as a result of participating in a public benefits or insurance program (such as co- payments or deductibles, or the required use of private insurance as the primary insurance).</li></ul> |
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