

Annotated Version of
OSEP’s Checklist of Issues with
Section II.A. of the IDEA Part C Grant Application

App. Section	Application/Regulatory Requirement	Regs.	Description of Changes	State policy (Name & date of document)	OSEP Issues Identified
II.A.1	<p>Name of Lead Agency</p> <p>Each application must include the name of the State lead agency, as designated under §303.120, that will be responsible for the administration of funds provided under this part.</p>	34 CFR §303.201.	No substantive change.	<i>There is no need to submit a separate document for this as long as the name of the State lead agency is in the signature block of the application.</i>	
II.A.2	<p>Description of Part C Services</p> <p>Each application must include a description of services to be provided under Part C to infants and toddlers with disabilities and their families through the State’s system.</p>	34 CFR §§303.203(a), 303.13, 303.16, 303.31, 303.34.	<p>§303.13(b), which defines <i>Early intervention services</i>, incorporates the statutory amendments to section 632 of the IDEA 2004 amendments by adding or clarifying the following specific definitions:</p> <p><i>Assistive technology device</i></p> <p><i>Sign language and cued language services</i></p> <p><i>Speech language pathology services,</i></p> <p><i>Transportation and related costs, and</i></p> <p><i>Vision Services.</i></p> <p>§303.13(d) identifies that the list of services is non-exhaustive, incorporating the note from the prior regulations.</p> <p>§303.16(c)(1)(iii) clarifies that the term <i>Health services</i> does not include services that are related</p>	<i>The State’s policies for each of the regulatory requirements in §§303.13 (<u>Early Intervention Services</u>), 303.16 (<u>Health Services</u>), 303.31 (<u>Qualified Personnel</u>), and 303.34 (<u>Service Coordination Services</u>) must be on file with OSEP and reflect all of the new requirements.</i>	

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		<p>to the implementation, optimization (mapping), maintenance, or replacement of a medical device that is surgically implanted, including a cochlear implant and includes additional specific provisions.</p> <p>§303.34 clarifies the role of the service coordinator, in the definition of <i>Service Coordination Services</i>.</p> <p>§§303.34(b)(1), (b)(5), (b)(6), (b)(7), (b)(8), and (b)(9) clarify that service coordination services include: (b)(1) making referrals to providers for needed services and scheduling appointments for infants and toddlers with disabilities and their families; (b)(5) conducting referral and other activities to assist families in identifying available EIS providers (b)(6) ensuring the timely provision of services; (b)(7) conducting follow-up activities to determine that appropriate Part C services are being provided; (b)(8) informing families of their rights and procedural safeguards; and (b)(9) coordinating the funding sources for services required under IDEA Part C.</p> <p>Service coordinators are no longer required to coordinate the funding sources for “other services” (i.e., those services listed on the IFSP but not required by Part C).</p> <p>§303.34(b)(2) adds “educational” and “social” as examples of other services that the service</p>		
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			<p>coordinator helps to coordinate.</p> <p>§303.34(b)(10) clarifies that service coordination services include facilitating the development of a transition plan to school, or if appropriate, other services, in addition to preschool, which was in the prior regulations.</p> <p>§303.34(c) incorporates into the regulations the text of the note that was in the prior regulations regarding characterizing the services as case management or any other service that is covered by another payor of last resort.</p> <p>§§303.31 and 303.13(c) clarify that <i>Qualified Personnel</i> adds to the list of qualified personnel registered dietitians (instead of nutritionists), and vision specialists, including ophthalmologists and optometrists.</p>		
II.A.3	Coordination of All Available Resources				
II.A.3.a	<p>System of Payments</p> <p>(a) If the State has adopted a system of payments, each application must include any policies or procedures adopted by the State as its system of payments and those policies and procedures must meet the requirements in §§303.510, 303.520 and 303.521 (regarding the use of public insurance or benefits, private insurance, or family</p>	<p>34 CFR §§303.203(b)(1), 303.510, 303.520, 303.521.</p>	<p><u>System of Payments</u></p> <p>§303.521 incorporates the longstanding requirement that if the State has adopted a system of payments (SOP) that requires the use of any of the following funding sources for IDEA Part C services, the State's system of payments or SOP policy must be in writing and submitted to OSEP as part of the State's</p>	<p><i>See OSEP IDEA Part C System of Payments Checklist.</i></p>	

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	<p>costs or fees).</p> <p>The State’s response under 3(a) of Section II-A must match the State’s response under Section IV.A.</p>		<p>application: public benefits or insurance, private insurance, and family fees.</p> <p>The Department has issued a separate guidance document that identifies the changes in the system of payments policy requirements. The document “Changes in Early Intervention: Use of Public Benefits or Insurance or Private Insurance to Pay for Part C Services” provides specific non-regulatory guidance regarding the Part C system of payment requirements can be found at the following link: http://idea.ed.gov/part-c/search/new.</p>		
II.A.3.b	<p>Methods of Ensuring Services</p> <p>(b) Each application must include the methods (State law, regulation, signed interagency or intra-agency agreements or other appropriate written method(s) approved by the Secretary) used by the State to implement the payor of last resort and fiscal responsibility requirements in §303.511(b)(2) and (3).</p> <p>(34 CFR §303.203(b)(2))</p> <p>If the State uses signed interagency or intra-agency agreements or “other appropriate written</p>	<p>34 CFR §§303.203(b)(2), 303.511</p>		<p><i>See OSEP IDEA Part C Methods Checklist.</i></p>	

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	method(s) to meet the requirements in 3(b),” please check ‘N’ or ‘R’ and submit with the application. If the State’s method is a State statute or regulation, the State does not need to submit that method (the statute or regulation) with its application.				
II.A.4	<p>Definition of Developmental Delay</p> <p>Each application must include the State’s rigorous definition of developmental delay as required under §§303.10 and 303.111. Each Statewide system must include the State’s rigorous definition of developmental delay, consistent with §§303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must--</p>	34 CFR §§303.203(c), 303.16, 303.300.	No substantive change. The IDEA 2004 amendments added the term “rigorous” before the term “developmental delay.”	<p><i>The State does not need to add the term “rigorous” to its definitions, but must have subjected its definition to the public participation requirements.</i></p> <p><i>While the State’s definition of “developmental delay” has always been an application requirement, beginning with the FFY 2012 application, States must also submit to OSEP and have on file their new evaluation and assessment procedures in new 303.321. (See 4.a and 4.b below)</i></p>	
II.A.4.a	<p>Evaluation and Assessment</p> <p>(a) Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment procedures, consistent with §303.321, that will be used to measure a child’s development; and</p>	34 CFR §§303.203(c), 303.10 303.21(a)(1), 303.24, 303.25, 303.111 303.321.	<p><u>Evaluation of the child and assessment of the child and family</u></p> <p>§303.321(a)(2), (b), and (c) established definitions of, and procedures for, the terms <u>evaluation</u> and <u>assessment</u>, including the assessment of the child and</p>	<p><i>There were major changes to evaluation and assessment provisions in 303.321 and the State’s submission will be reviewed for each subsection and provision.</i></p> <p><i>The State’s policies for each of the regulatory requirements in §§303.21(a)(1) (Areas of Developmental Delay), 303.24</i></p>	

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			<p>family.</p> <p>§303.321(a)(2)(i) clarifies that evaluation means the procedures used by qualified personnel to determine a child's initial and continuing eligibility under this Part, consistent with the definition of infant or toddler with a disability in §303.21.</p> <p>§303.321(a)(2)(i) and (iii) includes new definitions of the terms <u>initial evaluation</u> and <u>initial assessment</u>.</p> <p>§303.321(a)(2)(i) clarifies that an initial evaluation refers to the child's evaluation to determine his or her initial eligibility under this part.</p> <p>§303.321(a)(1)(ii) clarifies that assessments provided for each eligible child must include: (A) a multidisciplinary assessment of the unique strength and needs of the infant or toddler and the identification of services appropriate to meet those needs; and (B) a family-directed assessment of the resources, priorities and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler.</p>	<p><i>(Multidisciplinary), 303.25 (Native Language), and 303.321(Evaluation and Assessment) must be on file with OSEP and reflect all of the new requirements.</i></p>	
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			<p>§303.321(a)(2)(iii) clarifies that an initial assessment refers to assessments of the child and the family conducted prior to the child's initial IFSP meeting, both of which must be conducted within the 45-day timeline described in §303.310.</p> <p>§§303.321(a)(1)(ii) and (a)(3)(i) clarifies that an assessment is required once a child is determined eligible, regardless of how eligibility is determined.</p> <p>§303.321(a)(3)(i) clarifies that a child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) if those records indicate a developmental delay or that the child otherwise meets the criteria for an infant and toddler with a disability under §303.21.</p> <p>§303.321(a)(3)(ii) requires the lead agency to ensure that informed clinical opinion may be used as an independent basis to establish a child's eligibility even when other instruments do not establish eligibility, and provides that informed clinical opinion may not be used to negate the results of evaluation instruments used to establish eligibility.</p>		
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			<p>§303.321(c)(1) clarifies that an assessment of the child must include a review of the results of an evaluation conducted under §303.321(b), personal observations of the child, and the identification of the child's needs in each of the developmental areas in §303.21(a)(1).</p> <p>§303.24 clarifies that, with respect to evaluations and assessments, <u>multidisciplinary</u> may include one individual who is qualified in more than one discipline or profession.</p> <p>§303.25 provides a new definition for <u>native language</u>, including a reference to limited English proficient or LEP as that LEP term is defined in the ESEA, consistent with IDEA section 601.</p> <p>§§303.25 and 303.321(a)(5) provide that all evaluations and assessments of a child must be conducted in the native language of the child, if determined developmentally appropriate by qualified personnel conducting those evaluations and assessments, and §303.321(a)(6) provides that family assessments must be conducted in the native language of the family member being</p>		
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			assessed, in accordance with the new definition in §303.25, unless clearly not feasible to do so.		
II.A.4.b	<p>Level of Developmental Delay</p> <p>(b) Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in §303.21(a)(1).</p>	34 CFR §§303.203(c), 303.111, 303.10, 303.21(a)(1).	No substantive change.	<p><i>The State does not need to add the term “rigorous” to its definitions, but it must have subjected its definition to the public participation requirements.</i></p> <p><i>The State’s policies must meet the long standing requirements of Part C, now contained in §§303.111(b), and 303.21(a)(1)</i></p>	
II.A.5	<p>Serving At-Risk Infants and Toddlers with Disabilities</p> <p>If the State provides services under Part C to at-risk infants and toddlers through the statewide system, the application must include--</p> <p>(a) The State’s definition of at-risk infants and toddlers with disabilities who are eligible in the State for services under Part C (consistent with §§303.5 and 303.21(b)); and</p> <p>(b) A description of the early intervention services provided under Part C to at-risk infants and toddlers with disabilities who meet the State’s definition described in §303.204(a).</p>	34CFR §§303.204 303.5, 303.21(b).	§303.5 adds a new definition for <u>at-risk infant and toddler</u> incorporating the note from the prior regulations and clarifying that such children can be identified based on biological or environmental risk factors. It includes as examples (at the State’s discretion) children being directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.	<p><i>States have the option to serve at-risk infants and toddlers.</i></p> <p><i>If the State elects to serve at-risk children, it must include a definition of the at-risk children it serves.</i></p> <p><i>The State’s policy must also include a description of the early intervention services provided to at-risk infants and toddlers.</i></p>	

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	The policies and procedures listed in 5 are optional (i.e., they only apply if the State opts to serve at-risk children). Enter 'NA' in the cells to the left if the State has elected not to provide services under Part C to at-risk infants and toddlers; otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach the definition and description.				
II.A.6	<p>Use of Funds</p> <p>Each State application must include a description of the State’s use of funds under Part C for the fiscal year or years covered by the application. The description must be presented separately for the lead agency and the State Interagency Coordinating Council (Council), and include the information required in Section III of this application.</p>	34 CFR §303.205, 303.603.	<p>§303.205(b) limits the applicability of the requirement that the lead agency include in the Use of Funds (Section III of the Grant application) specific information about the use of IDEA Part C funds for State administration to those State lead agencies that are not SEAs. Thus, SEAs no longer have to provide this information. §303.205 also no longer requires the State to identify the amount of funds used for services to at-risk infants and toddlers.</p> <p>§303.603 remains substantively unchanged.</p>	<i>Each State must submit a new Section III, the Use of Funds section, each year, so this must be marked as “new” each year.</i>	
II.A.7	<p>Referral of Children under CAPTA and Other At-Risk Children</p> <p>Each application must include the State’s policies and procedures that require</p>	34 CFR §§303.206, 303.303(b).	<p>§§303.206 and 303.303(b) incorporate the statutory changes regarding referral policies for specific children in section 637(a)(6) of the IDEA 2004</p>	<i>The State is required to have policies and procedures. Interagency agreements are optional, but if the State uses its interagency agreement as its policy and submits the</i>	

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	the referral for early intervention services under Part C of specific children under the age of three, as described in §303.303(b) (which includes children who are the subject of a substantiated case of abuse or neglect, or directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure).		amendments, except that the language regarding substantiated cases of abuse has been modified. The statutory language referred to children “involved” in substantiated cases of abuse, while the regulatory language in §303.303(b)(1) refers to children who are the “subject” of a substantiated case of abuse. Additionally, §303.303(b)(2) adds the term “directly” before the language “affected by illegal substance abuse...”	<i>agreement, OSEP will review for consistency with IDEA Part C requirements including the referral requirements in §303.303.</i>	
II.A.8	Geographic Equity Each application must include a description of the procedure used by the State to ensure that resources are made available under Part C for all geographic areas within the State.	34 CFR §303.207.	No substantive change.	<i>The State’s description regarding geographic equity must be on file with OSEP and if the State cannot locate it, it should submit a revised or updated description.</i>	
II.A.9	Public Participation Each application must include a description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and 34 CFR Part 303, the lead agency-- (1) Holds public hearings	34 CFR §§303.208, 303.101(c).	<u>Public participation policies and procedures</u> §303.208(a) clarifies the public participation requirements to the State’s Part C application. §303.208(b) clarifies applicability of the public participation requirements to the State’s policies and procedures (including any revision to an existing policy or procedure) that	<i>The application must include a description of the policies and procedures used for public participation in general and those policies must meet the requirements in 34 CFR §303.208(b).</i> <i>The State’s description of its policies must address §303.208(b), and not just include a description of how the State met the public participation requirements in a particular year for that</i>	

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	<p>on the new policy or procedure (including any revision to an existing policy or procedure);</p> <p>(2) Provides notice of the hearings held in accordance with §303.208(b)(1) at least 30 days before the hearings are conducted to enable public participation; and</p> <p>(3) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and 34 CFR Part 303.</p>		<p>are necessary to comply with Part C of the Act. This provision makes clear that the public participation requirements apply to all State policies and procedures necessary to comply with Part C of the Act and not just those that are required to be submitted with the State’s application (as was the case with the prior regulations).</p> <p>§303.208(b) requires lead agencies to hold public hearings, provide prior notice at least 30 days before the hearings, and provide a public comment period of at least 30 days before adopting any new or revised part C policies or procedures.</p> <p>The provisions in the prior regulations regarding submission of the notice of public hearings, publication of such notice in newspapers, requests for waivers of the timelines, and other provisions have been removed.</p> <p>§303.101(c) clarifies that the State must obtain approval by the Secretary before the implementation of policies or procedures required to be submitted under §§303.203, 303.204, 303.206, 303.207, 303.208, 303.209 and 303.211.</p>	<p><i>application.</i></p>	
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II.A.10.	Transition	34 CFR §§ 303.209, 303.344(h), 303.211, 303.401.	See the OSEP IDEA Part C Transition Checklist for a description of the changes to the early childhood transition requirements and how all of those changes must be included in the State's Transition Agreement and the State's transition policies and procedures.	<i>See OSEP Transition Checklist.</i>	
II.A.11	Head Start 11. Each application must contain a description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, <u>et seq.</u> , as amended), early education and child care programs, and services under Part C.	34 CFR §303.210.	IDEA §637(a)(10) added this application requirement and §303.210 includes a reference to Early Head Start in addition to Head Start.	<p><i>The State is required to provide a description of its efforts.</i></p> <p><i>The State may reference or provide a description of its interagency agreement without further explanation. The State is not required to submit its interagency agreement with HeadStart under this section of the application.</i></p> <p><i>The State would be required to submit a HeadStart interagency agreement if that agreement is part of a Method under §303.511 (i.e., when the State's Head Start/ Early Head Start program is paying for or providing Part C services and that program is not administered by the Part C lead agency).</i></p> <p><i>If an interagency agreement is submitted (not as a Method but under this section), OSEP will review it to ensure it is consistent with IDEA Part C requirements. If the interagency agreement is submitted as a Method it will be reviewed under those</i></p>	

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				<i>standards; please see OSEP's Method Checklist under Section II.A.3.a.</i>	
II.A.12	<p>Equitable Access & Participation - GEPA</p> <p>12. Each application must include, as required by Section 427 of the General Education Provisions Act (GEPA), 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.</p>	34 CFR §303.212(a)	No substantive change.	<i>The State's description regarding equitable access and participation under GEPA must be on file with OSEP and if the State cannot locate it, it should submit a revised or updated description.</i>	
II.A.13	Part C Extension Option				