



Individuals With Disabilities Education Act Part C: Early Intervention Program for Infants and Toddlers With Disabilities



Final Regulations Side-by-Side
Comparison
SUBPART E
October 2011



Council for
Exceptional
Children



Division for
Early Childhood

The voice and vision of special education



Subpart E – Procedural Safeguards

Individuals with Disabilities Education Act: Part C Early Intervention Program for Infants and Toddlers with Disabilities Final Regulations

This side-by-side comparison of the 2011 final regulations to the 1999 Part C regulations serves as a tool to assist readers in understanding the new regulations and preparing their own analysis related to Part C. Permission to copy is not required and distribution is encouraged. Please give credit to CEC/DEC/ITCA



The Council for Exceptional Children (CEC) is the largest international professional organization dedicated to improving the educational success of individuals with disabilities and/or gifts and talents. CEC advocates for appropriate governmental policies, sets professional standards, provides professional development, advocates for individuals with exceptionalities, and helps professionals obtain conditions and resources necessary for effective professional practice. www.cec.sped.org

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Division of Early Childhood is one of seventeen divisions of the Council for Exceptional Children (CEC) - the largest international professional organization dedicated to improving educational outcomes for individuals with exceptionalities, students with disabilities, and/or the gifted. DEC is especially for individuals who work with or on behalf of children with special needs, birth through age eight, and their families. www.dec-sped.org

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Infant and Toddler Coordinators Association

The Individuals with Disabilities Education Act (IDEA) Infant and Toddler Coordinators Association is organized as a not-for-profit corporation to promote mutual assistance, cooperation, and exchange of information and ideas in the administration of Part C and to provide support to state and territory Part C coordinators. www.ideainfanttoddler.org

For more information, please contact Maureen Greer, Executive Director or Sharon Walsh, Governmental Liaison at (317)251-0125 or ideaitca@aol.com

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Introduction

On Sept. 28, 2011, new regulations for the Part C Early Intervention Program for Infants and Toddlers with Disabilities were published in the Federal Register. These regulations, promulgated under the Individuals with Disabilities Education Act (IDEA), were in response to IDEA 2004, the most recent reauthorization of IDEA. Public comments had been received on a Noticed of Proposed Rulemaking (NPRM) for Part C published May 9, 2007. These final regulations are effective Oct. 28, 2011.

The Council for Exceptional Children (CEC), its Division for Early Childhood (DEC) and the IDEA Infant Toddler Coordinators Association (ITCA) are pleased to provide this side-by-side comparison of the 2011 final Part C regulations to the 1999 Part C regulations. This document is designed as a tool to assist readers in understanding the new regulations in relation to the 1999 regulations.

The document is available for downloading in two different formats. The complete document, organized into its eight subparts, can be downloaded or selected subparts can be downloaded. The document is organized according to the subparts in the 1999 regulations with the exception of a new Subpart H, which is based on the new regulations.

Subpart A: General

Subpart B: State Application for a Grant and Requirements for a Statewide System

Subpart C: Procedures for Making Grants to States

Subpart D: Program and Service Components of a Statewide System of Early Intervention Services

Subpart E: Procedural Safeguards

Subpart F: State Administration

Subpart G: State Interagency Coordinating Council

Subpart H: Monitoring and Enforcement; Reporting; and Allocation of Funds

Both formats of the document are available at the Web sites of all three associations:

www.cec.sped.org

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The side-by-side format of the document includes:

- *Left column* “1999 Part C Regulations” includes the current Part C regulations last published in the Federal Register on March 12, 1999.
- *Middle column* “2011 Part C Regulations” provides sections of the new regulations aligned next to the applicable 1999 regulatory section.
- *Right column* “U.S. Department of Education Selected Analysis of Comments and Changes” includes selected quotes from this introductory section of the new Part C regulations package. These quotes are selected to provide the reader with an understanding of why a particular regulation was changed or not as compared with the NPRM. These quotes also provide additional clarification of the Department’s intent when revising or adding a particular final regulation.

The reader should note a few things in reviewing the new regulations. First, all “notes” that are included in the current regulations have been removed. Also, specific language from 34 CFR Part 300, related to confidentiality and dispute resolution, has been incorporated into relevant sections of the Part C regulations package with necessary changes made for applicability to Part C.

Finally, the reader should note that in many instances, the final regulations represent a reorganization of the existing regulations. Numerous provisions have been moved and resulting citations have changed. These changes made the task of alignment difficult. While we have made every effort to ensure accurate alignment of the new provisions, there may be instances in which this was not possible.

The final Part C regulations contain numerous changes and additions. The reader is encouraged to consider and review the new regulations completely. The following are a selected list of changes made and areas to review:

- Definitions of key terms, including multidisciplinary, natural environments, and native language, have been revised and new definitions, including local educational agency (LEA) and scientifically-based research have been added.
- Transition requirements have been revised, including provisions related to notification to the local educational agency (LEA) and state educational agency (SEA), timelines, an opt-out policy, the transition conference, and the transition plan.

- An optional state screening policy has been added as part of a new organizational structure of pre-referral, referral, and post-referral activities.
- The two working-day requirement from identification to referral has been changed to “as soon as possible but no more than 7 calendar days after identification.”
- The 45-day required timeline from referral to the IFSP meeting has been retained with the addition of some provisions permitting documentation of extraordinary circumstances for a delay.
- Child Find provisions have been changed to add programs with which the lead agency must collaborate.
- Definitions and provisions for evaluation and assessment including family assessment have been revised.
- Required provisions for the “use of informed clinical opinion” have been clarified.
- Natural environment provisions have been revised to reflect the 2004 statutory change.
- Changes in the content of the IFSP have been made including in the “early intervention services” and “other services” components.
- Several changes have been made to procedural safeguards, including provisions related to written prior notice, confidentiality, surrogate parents, and dispute resolution.
- Changes have been made in provisions related to financial responsibility, systems of payment, and ability to pay, as well as to the use of public benefits and insurance and private insurance.
- Provisions related to monitoring, enforcement, reporting, and allocation have been included in a new subpart of the Part C regulations.

The Department has announced plans to publish a Notice of Proposed Rulemaking (NPRM) related to maintenance of effort (MOE) requirements with an opportunity for public comment in the near future.

As you work to implement these new regulations in order to serve infants and toddlers with disabilities and their families, CEC, DEC, and ITCA stand ready to serve as a resource for you.

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.400 General responsibility of lead agency for procedural safeguards.</u> Each lead agency shall be responsible for— (a) Establishing or adopting procedural safeguards that meet the requirements of this subpart; and</p>	<p><u>§303.400 General responsibility of lead agency for procedural safeguards.</u> Subject to paragraph (c) of this section, each lead agency must-- (a) Establish or adopt the procedural safeguards that meet the requirements of this subpart, including the provisions on confidentiality in §§303.401 through 303.417, parental consent and notice in §§303.420 and 303.421, surrogate parents in §303.422, and dispute resolution procedures in §303.430;</p>	
<p><u>§303.400 General responsibility of lead agency for procedural safeguards.</u> (b) Ensuring effective implementation of the safeguards by each public agency in the State that is involved in the provision of early intervention services under this part.</p>	<p><u>§303.400 General responsibility of lead agency for procedural safeguards.</u> (b) Ensure the effective implementation of the safeguards by each participating agency (including the lead agency and EIS providers) in the statewide system that is involved in the provision of early intervention services under this part; and</p>	
	<p><u>§303.400 General responsibility of lead agency for procedural safeguards.</u> (c) Make available to parents an initial copy of the child’s early intervention record, at no cost to the parents.</p>	
<p><u>§303.401 (a) Definitions of consent, native language, and personally identifiable information.</u> As used in this subpart— (a) Consent means that— (1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent’s native language or other mode of communication; (2) The parent understands and agrees in writing to</p>	<p>NOTE: This regulation now appears under Subpart A at <u>§303.7 Consent.</u></p>	

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<p><u>§303.401 (a) Definitions of consent, native language, and personally identifiable information.</u> the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and (3) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time;</p>		
<p><u>§303.401 Definitions of consent, native language, and personally identifiable information.</u> (b) Native language, where used with reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of a child eligible under this part;</p>	<p>NOTE: This regulation now appears under Subpart A at <u>§303.25 Native Language.</u></p>	
<p><u>§303.401 Definitions of consent, native language, and personally identifiable information.</u> (c) Personally identifiable means that information includes— (1) The name of the child, the child’s parent, or other family member; (2) The address of the child; (3) A personal identifier, such as the child’s or parent’s social security number; or (4) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.</p>	<p>NOTE: This regulation now appears under Subpart A at <u>§ 303.29 Personally identifiable information.</u></p>	
<p><u>§303.402 Opportunity to examine records.</u> In accordance with the confidentiality procedures in the regulations under part B of the Act (34 CFR 300.560 through 300.576), the parents of a child eligible under this part must be afforded the opportunity to inspect and review records relating to evaluations and assessments, eligibility</p>	<p><u>§303.401 Confidentiality and opportunity to examine records.</u> (b)(2) The parents of infants or toddlers who are referred to, or receive services under this part, are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected,</p>	

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<p><u>§303.402 Opportunity to examine records.</u> determinations, development and implementation of IFSPs, individual complaints dealing with the child, and any other area under this part involving records about the child and the child’s family.</p>	<p><u>§303.401 Confidentiality and opportunity to examine records.</u> maintained, or used under this part, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child’s early intervention record under this part.</p>	
<p><u>§303.403 Prior notice; native language.</u> (a) General. Written prior notice must be given to the parents of a child eligible under this part a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child’s family.</p>	<p><u>§303.421 Prior written notice and procedural safeguards notice.</u> (a) General. Prior written notice must be provided to parents a reasonable time before the lead agency or an EIS provider proposes, or refuses, 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.</p>	<p>The Department clarified that “Quantifying the phrase ‘reasonable time’ in §303.421(a) would be inappropriate because what constitutes a reasonable time may vary based on the individual circumstances of each case. However, we would expect a lead agency to provide notice under §303.421 within a timeframe that allows the parent time to respond to the notice before the lead agency takes, or refuses to take, the actions listed in §303.421(a).”</p>
<p><u>§303.403 Prior notice; native language.</u> (b) Content of notice. The notice must be in sufficient detail to inform the parents about— (1) The action that is being proposed or refused; (2) The reasons for taking the action; (3) All procedural safeguards that are available under §§ 303.401–303.460 of this part; and (4) The State complaint procedures under §§ 303.510–303.512, including a description of how to file a complaint and the timelines under those procedures.</p>	<p><u>§303.421 Prior written notice and procedural safeguards notice.</u> (b) Content of notice. The notice must be in sufficient detail to inform parents about-- (1) The action that is being proposed or refused; (2) The reasons for taking the action; and (3) All procedural safeguards that are available under this subpart, including a description of mediation in §303.431, how to file a State complaint in §§303.432 through 303.434 and a due process complaint in the provisions adopted under §303.430(d), and any timelines under those procedures.</p>	
<p><u>§303.403 Prior notice; native language.</u> (c) Native language. (1) The notice must be—</p>	<p><u>§303.421 Prior written notice and procedural safeguards notice.</u> (c) Native language.</p>	

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1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.403 Prior notice; native language.</u> (i) Written in language understandable to the general public; and (ii) Provided in the native language of the parents, unless it is clearly not feasible to do so. (2) If the native language or other mode of communication of the parent is not a written language, the public agency, or designated service provider, shall take steps to ensure that— (i) The notice is translated orally or by other means to the parent in the parent’s native language or other mode of communication; (ii) The parent understands the notice; and (iii) There is written evidence that the requirements of this paragraph have been met.</p>	<p><u>§303.421 Prior written notice and procedural safeguards notice.</u> (1) The notice must be-- (i) Written in language understandable to the general public; and (ii) Provided in the native language, as defined in §303.25, of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. (2) If the native language or other mode of communication of the parent is not a written language, the public agency or designated EIS provider must take steps to ensure that-- (i) The notice is translated orally or by other means to the parent in the parent’s native language or other mode of communication; (ii) The parent understands the notice; and (iii) There is written evidence that the requirements of this paragraph have been met.</p>	
<p><u>§303.403 Prior notice; native language.</u> (3) If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).</p>	<p>NOTE: This regulation now appears under Subpart A at <u>§303.25 Native Language.</u></p>	
<p><u>§303.404 Parent consent.</u> (a) Written parental consent must be obtained before— (1) Conducting the initial evaluation and assessment of a child under § 303.322; and (2) Initiating the provision of early intervention services (see § 303.342(e)).</p>	<p><u>§303.420 Parental consent and ability to decline services.</u> (a) The lead agency must ensure parental consent is obtained before-- (1) Administering screening procedures under §303.320 that are used to determine whether a child is suspected of having a disability; (2) All evaluations and assessments of a child are conducted under §303.321; (3) Early intervention services are provided to the child under this part;</p>	<p>The Department clarified “if the lead agency collects, uses, or maintains information about an eligible child to meet the SPP/APR reporting requirements of the Department under Part C of the Act, including the required reporting on child outcomes (which information is reported based on aggregate numbers of children, and not by individual child), generally, the information is not personally identifiable provided that the State has addressed any confidentiality constraints as a result of small data cells and, thus, prior written parental</p>

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	<p><u>§303.420 Parental consent and ability to decline services.</u> (4) Public benefits or insurance or private insurance is used if such consent is required under §303.520; and (5) Disclosure of personally identifiable information consistent with §303.414.</p>	<p>consent would not be required. However, as noted in the FAQ document referenced by the commenter, prior written parental consent is required under §303.420 if the collection of outcome information is a part of the lead agency’s evaluation to determine initial or continuing eligibility of a child in the Part C program. In this circumstance, States must provide prior written notice to the parents under §303.421 and, if applicable, obtain parental consent for evaluation as required in §303.420.”</p> <p>The Department further stated “It is important for parents to be able to determine whether their child should receive a developmental screening.”</p> <p>The Department clarified the position that “parental consent is required for all evaluations, including an initial evaluation and assessment of a child and all subsequent evaluations and assessments of a child.”</p> <p>The Department “revised §303.420(a)(4) to clarify that the lead agency must ensure that parental consent is obtained before public benefits or insurance or private insurance is used if such consent is required under §303.520.”</p>
<p><u>§303.404 Parent consent.</u> (b) If consent is not given, the public agency shall make reasonable efforts to ensure that the parent— (1) Is fully aware of the nature of the evaluation and assessment or the services that would be available; and (2) Understands that the child will not be able to receive the evaluation and assessment or services unless consent is given.</p>	<p><u>§303.420 Parental consent and ability to decline services.</u> (b) If a parent does not give consent under paragraph (a)(1), (a)(2), or (a)(3) of this section, the lead agency must make reasonable efforts to ensure that the parent-- (1) Is fully aware of the nature of the evaluation and assessment of the child or early intervention services that would be available; and (2) Understands that the child will not be able to</p>	

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	<p><u>§303.420 Parental consent and ability to decline services.</u> receive the evaluation, assessment, or early intervention service unless consent is given.</p>	
	<p><u>§303.420 Parental consent and ability to decline services.</u> (c) The lead agency may not use the due process hearing procedures under this part or Part B of the Act to challenge a parent’s refusal to provide any consent that is required under paragraph (a) of this section</p>	<p>The Department noted that “the participation of infants and toddlers with disabilities and their families in the Part C program is voluntary and a parent may refuse an initial evaluation or assessment without the lead agency being able to use the due process hearing procedures under this part or under the regulations under Part B of the Act to challenge the parent’s refusal.</p>
<p><u>§303.404 Parent consent.</u> NOTE 1: In addition to the consent requirements in this section, other consent requirements are included in (1) § 303.460(a), regarding the exchange of personally identifiable information among agencies, and (2) the confidentiality provisions in the regulations under part B of the Act (34 CFR 300.571) and 34 CFR part 99 (Family Educational Rights and Privacy), both of which apply to this part. NOTE 2: Under § 300.504(b) of the part B regulations, a public agency may initiate procedures to challenge a parent’s refusal to consent to the initial evaluation of the parent’s child and, if successful, obtain the evaluation. This provision applies to eligible children under this part, since the part B evaluation requirement applies to all children with disabilities in a State, including infants and toddlers.</p>		
<p><u>§303.405 Parent right to decline service.</u> The parents of a child eligible under this part may determine whether they, their child, or other family members will accept or decline any early</p>	<p><u>§303.420 Parental consent and ability to decline services.</u> (d) The parents of an infant or toddler with a disability--</p>	

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<p><u>§303.405 Parent right to decline service.</u> intervention service under this part in accordance with State law, and may decline such a service after first accepting it, without jeopardizing other early intervention services under this part</p>	<p><u>§303.420 Parental consent and ability to decline services.</u> (1) Determine whether they, their infant or toddler with a disability, or other family members will accept or decline any early intervention service under this part at any time, in accordance with State law; and (2) May decline a service after first accepting it, without jeopardizing other early intervention services under this part.</p>	
<p><u>§303.406 Surrogate parents.</u> (a) General. Each lead agency shall ensure that the rights of children eligible under this part are protected if— (1) No parent (as defined in § 303.18) can be identified; (2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or (3) The child is a ward of the State under the laws of that State.</p>	<p><u>§303.422 Surrogate parents.</u> (a) General. Each lead agency or other public agency must ensure that the rights of a child are protected when-- (1) No parent (as defined in §303.27) can be identified; (2) The lead agency or other public agency, after reasonable efforts, cannot locate a parent; or (3) The child is a ward of the State under the laws of that State.</p>	<p>The Department clarified that “Although [the Department] used the simpler term ‘locate a parent’ in place of the term ‘discover the whereabouts of a parent,’ [the Department] has not changed the meaning of the regulations...”</p>
<p><u>§303.406 Surrogate parents.</u> (b) Duty of lead agency and other public agencies. The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parent. This must include a method for— (1) Determining whether a child needs a surrogate parent; and (2) Assigning a surrogate parent to the child.</p>	<p><u>§303.422 Surrogate parents.</u> (b) Duty of lead agency and other public agencies. (1) The duty of the lead agency, or other public agency under paragraph (a) of this section, includes the assignment of an individual to act as a surrogate for the parent. This assignment process must include a method for-- (i) Determining whether a child needs a surrogate parent; and (ii) Assigning a surrogate parent to the child. (2) In implementing the provisions under this section for children who are wards of the State or placed in foster care, the lead agency must consult with the public agency that has been assigned care of the child.</p>	<p>The Department explained the addition of Section 303.422(b)(2) to require “the lead agency, when determining whether and who to appoint as a surrogate parent for children who are wards of the State or placed in foster care, to consult with the public agency with whom care of the child has been assigned. The individuals involved in implementing the provisions in §303.422 for children who are wards of the State or placed in foster care will vary on a case-by-case basis. The regulations as written provide the flexibility necessary for a lead agency and the public agency, as part of the consultation process in §303.422, to decide who should be involved in implementing the requirements of this section.”</p>

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	<p>§303.422 Surrogate parents. (c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent, instead of being appointed by the lead agency under paragraph (b)(1) of this section, may be appointed by the judge overseeing the infant or toddler’s case provided that the surrogate parent meets the requirements in paragraphs (d)(2)(i) and (e) of this section.</p>	
<p>§303.406 Surrogate parents. (c) Criteria for selecting surrogates. (1)The lead agency or other public agency may select a surrogate parent in any way permitted under State law. (2) Public agencies shall ensure that a person selected as a surrogate parent— (i) Has no interest that conflicts with the interests of the child he or she represents; and (ii) Has knowledge and skills that ensure adequate representation of the child. (d) Non-employee requirement; compensation. (1) A person assigned as a surrogate parent may not be— (i) An employee of any State agency; or (ii) A person or an employee of a person providing early intervention services to the child or to any family member of the child.</p>	<p>§303.422 Surrogate parents. (d) Criteria for selection of surrogate parents. (1) The lead agency or other public agency may select a surrogate parent in any way permitted under State law. (2) Public agencies must ensure that a person selected as a surrogate parent-- (i) Is not an employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to the child or any family member of the child; (ii) Has no personal or professional interest that conflicts with the interest of the child he or she represents; and (iii) Has knowledge and skills that ensure adequate representation of the child.</p>	<p>The Department has “amended §303.422(d)(2)(i) to expressly prohibit any employee of the lead agency or any other public agency or EIS provider that provides early intervention services, education, care, or other services to a child or any family member of the child from serving as a surrogate parent for that child.”</p> <p>The Department provides additional clarification on the decision not to include language about removing a surrogate parent, stating “The Act is silent on when or how a surrogate parent can be removed. However, a lead agency has a responsibility to ensure that a surrogate parent is carrying out his or her responsibilities; therefore, there are some circumstances when removal may be appropriate. A mere disagreement with the decisions of a surrogate parent about appropriate services or placements for a child, however, generally would not be sufficient to give rise to a removal, as the role of a surrogate parent is to represent the interests of the child, which may not be the same as the interests of the public agency. We do not think a regulation is necessary because these circumstances may be resolved under State law. Additionally, the rights of an infant or toddler with a disability are adequately</p>

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		protected by Titles II and VI of the ADA, which prohibit retaliation or coercion against any individual who exercises their rights under Federal law for the purpose of assisting children with disabilities, to protect the child’s rights under this statute.”
<p><u>§303.406 Surrogate parents.</u> (d)(2) A person who otherwise qualifies to be a surrogate parent under paragraph (d)(1) of this section is not an employee solely because he or she is paid by a public agency to serve as a surrogate parent.</p>	<p><u>§303.422 Surrogate parents.</u> (e) Non-employee requirement; compensation. A person who is otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.</p>	
<p><u>§303.406 Surrogate parents.</u> (e) Responsibilities. A surrogate parent may represent a child in all matters related to— (1) The evaluation and assessment of the child; (2) Development and implementation of the child’s IFSPs, including annual evaluations and periodic reviews; (3) The ongoing provision of early intervention services to the child; and (4) Any other rights established under this part.</p>	<p><u>§303.422 Surrogate parents.</u> (f) Surrogate parent responsibilities. The surrogate parent has the same rights as a parent for all purposes under this part.</p>	
	<p><u>§303.422 Surrogate parents.</u> (g) Lead agency responsibility. The lead agency must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.</p>	The Department notes, “Given that the development of infants and toddlers quickly changes, identifying a surrogate parent in a timely manner is important to a child, prevents undue delays, and aids the effective implementation of the requirements of this part. Additionally, a 30-day time frame to identify a surrogate parent is consistent with 34 CFR 300.519(h) of the Part B regulations and establishes a timeframe in which a surrogate parent must be appointed, thus preventing undue delays.”
<p><u>§303.419 Mediation.</u> (a) General. Each State shall ensure that procedures</p>	<p><u>§303.431 Mediation.</u> (a) General. Each lead agency must ensure that</p>	The Department clarifies that “parties to disputes may request mediation at any time to resolve any

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1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.419 Mediation.</u> are established and implemented to allow parties to disputes involving any matter described in § 303.403(a) to resolve the disputes through a mediation process which, at a minimum, must be available whenever a hearing is requested under § 303.420. The lead agency may either use the mediation system established under Part B of the Act or establish its own system.</p>	<p><u>§303.431 Mediation.</u> procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process at any time.</p>	<p>matter arising under this part, regardless of whether a due process complaint or a State complaint is filed. [The Department] has amended §303.431 to expressly provide that mediation may be used ‘at any time.’”</p>
<p><u>§303.419 Mediation.</u> (b) Requirements. The procedures must meet the following requirements: (1) The procedures must ensure that the mediation process— (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent’s right to a due process hearing under § 303.420, or to deny any other rights afforded under Part C of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (2) The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services. (3) The State shall bear the cost of the mediation process, including the costs of meetings described in paragraph (c) of this section. (4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. (5) An agreement reached by the parties to the dispute in the mediation process must be set forth</p>	<p><u>§303.431 Mediation.</u> (b) Requirements. The procedures must meet the following requirements: (1) The procedures must ensure that the mediation process-- (i) Is voluntary on the part of the parties; (ii) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under Part C of the Act; and (iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques. (2)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of early intervention services. (ii) The lead agency must select mediators on a random, rotational, or other impartial basis. (3) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (d) of this section. (4) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute. (5) If the parties resolve a dispute through the</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.419 Mediation.</u> in a written mediation agreement. (6) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of the process.</p>	<p><u>§303.431 Mediation.</u> mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that-- (i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and (ii) Is signed by both the parent and a representative of the lead agency who has the authority to bind such agency. (6) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. (7) Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.</p>	
	<p><u>§303.431 Mediation.</u> (c) Impartiality of mediator. (1) An individual who serves as a mediator under this part-- (i) May not be an employee of the lead agency or an EIS provider that is involved in the provision of early intervention services or other services to the child; and (ii) Must not have a personal or professional interest that conflicts with the person's objectivity. (2) A person who otherwise qualifies as a mediator is not an employee of a lead agency or an early intervention provider solely because he or she is paid by the agency or provider to serve as a</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.431 Mediation.</u> mediator.</p>	
<p><u>§303.419 Mediation.</u> (c) Meeting to encourage mediation. A State may establish procedures to require parents who elect not to use the mediation process to meet, at a time and location convenient to the parents, with a disinterested party— (1) Who is under contract with a parent training and information center or community parent resource center in the State established under sections 682 or 683 of the Act, or an appropriate alternative dispute resolution entity; and (2) Who would explain the benefits of the mediation process and encourage the parents to use the process.</p>	<p><u>§303.431 Mediation.</u> (d) Meeting to encourage mediation. A lead agency may establish procedures to offer to parents and EIS providers that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party-- (1) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and (2) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.</p>	
<p><u>§303.510 Adopting complaint procedures.</u> (a) General. Each lead agency shall adopt written procedures for-- (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that any public agency or private service provider is violating a requirement of Part C of the Act or this Part by— (i) Providing for the filing of a complaint with the lead agency; and (ii) At the lead agency's discretion, providing for the filing of a complaint with a public agency and the right to have the lead agency review the public agency's decision on the complaint; and (2) Widely disseminating to parents and other interested individuals, including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate</p>	<p><u>§303.432 Adoption of State complaint procedures.</u> (a) General. Each lead agency must adopt written procedures for-- (1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements in §303.434 by providing for the filing of a complaint with the lead agency; and (2) Widely disseminating to parents and other interested individuals, including parent training and information centers, Protection and Advocacy (P&A) agencies, and other appropriate entities, the State procedures under §§303.432 through 303.434.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.510 Adopting complaint procedures.</u> entities, the State's procedures under Secs. 303.510-303.512.</p>		
<p><u>§303.510 Adopting complaint procedures.</u> (b) Remedies for denial of appropriate services. In resolving a complaint in which it finds a failure to provide appropriate services, a lead agency, pursuant to its general supervisory authority under Part C of the Act, must address: (1) How to remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family; and (2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.</p>	<p><u>§303.432 Adoption of State complaint procedures</u> (b) Remedies for denial of appropriate services. In resolving a complaint in which the lead agency has found a failure to provide appropriate services, the lead agency, pursuant to its general supervisory authority under Part C of the Act, must address-- (1) The failure to provide appropriate services, including corrective actions appropriate to address the needs of the infant or toddler with a disability who is the subject of the complaint and the infant's or toddler's family (such as compensatory services or monetary reimbursement); and (2) Appropriate future provision of services for all infants and toddlers with disabilities and their families.</p>	<p>The Department notes "the lead agency is responsible for ensuring that all public agencies within its jurisdiction meet the requirements of the Act and its implementing regulations. In light of the lead agency's general supervisory authority ... the lead agency should have the flexibility to determine the appropriate remedies or corrective actions necessary to resolve a complaint in which it has determined that a public agency has failed to provide appropriate services to an infant or toddler with a disability, including the award of compensatory services or monetary reimbursement. To make this clear, [the Department] has changed §303.432(b)(1) to include compensatory services and monetary reimbursement as examples of corrective actions that may be appropriate to address the needs of an infant or toddler with a disability who is the subject of a complaint and the infant's or toddler's family."</p>
<p><u>§303.511 An organization or individual may file a complaint.</u> (a) General. An individual or organization may file a written signed complaint under Sec. 303.510. The complaint must include-- (1) A statement that the State has violated a requirement of part C of the Act or the regulations in this part; and (2) The facts on which the complaint is based.</p>	<p><u>§303.434 Filing a complaint.</u> (a) An organization or individual may file a signed written complaint under the procedures described in §§303.432 and 303.433. (b) The complaint must include-- (1) A statement that the lead agency, public agency, or EIS provider has violated a requirement of Part C of the Act; (2) The facts on which the statement is based; (3) The signature and contact information for the complainant; and (4) If alleging violations with respect to a specific child--</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p>§303.434 Filing a complaint. (i) The name and address of the residence of the child; (ii) The name of the EIS provider serving the child; (iii) A description of the nature of the problem of the child, including facts relating to the problem; and (iv) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.</p>	
<p>§303.511 An organization or individual may file a complaint. (b) Limitations. The alleged violation must have occurred not more than one year before the date that the complaint is received by the public agency unless a longer period is reasonable because-- (1) The alleged violation continues for that child or other children; or (2) The complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint is received by the public agency.</p>	<p>§303.434 Filing a complaint. (c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with §303.432.</p>	<p>The Department clarifies, “A one-year timeline is reasonable and will assist lead agencies in ensuring the effective implementation of State complaint procedures and State Part C programs. Limiting a State complaint to an allegation of a violation that occurred not more than one year prior to the date the lead agency receives the complaint will ensure that problems regarding a State’s Part C program are raised and addressed promptly.”</p>
	<p>§303.434 Filing a complaint. (d) The party filing the complaint must forward a copy of the complaint to the public agency or EIS provider serving the child at the same time the party files the complaint with the lead agency.</p>	<p>The Department required “the complaint to be forwarded to the public agency or EIS provider serving the child at the same time the party files the complaint with the lead agency enables the public agency or EIS provider to be informed of the issues in the State complaint in order to provide an opportunity for the voluntary resolution of the complaint ... providing the public agency or EIS provider with information about the complaint enables the parties to have the opportunity to resolve disputes directly at the earliest possible time and that this benefit outweighs the minimal burden</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
		placed on the complainant. ...the information that is provided by the complainant generally is information that should already be available to the public agency or EIS provider who is responsible for providing services to a particular child. In addition, the public agency or EIS provider needs to know the identity of the complainant and relevant allegations in the complaint (consistent with §303.434) in order to propose a resolution of the issues.”
<p><u>§303.512 Minimum State complaint procedures.</u> (a) Time limit, minimum procedures. Each lead agency shall include in its complaint procedures a time limit of 60 calendar days after a complaint is filed under Sec. 303.510(a) to-- (1) Carry out an independent on-site investigation, if the lead agency determines that such an investigation is necessary; (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part C of the Act or of this Part; and (4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains-- (i) Findings of fact and conclusions; and (ii) The reasons for the lead agency's final decision.</p>	<p><u>§303.433 Minimum State complaint procedures.</u> (a) Time limit; minimum procedures. Each lead agency must include in its complaint procedures a time limit of 60 days after a complaint is filed under §303.434 to-- (1) Carry out an independent on-site investigation, if the lead agency determines that an investigation is necessary; (2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint; (3) Provide the lead agency, public agency, or EIS provider with an opportunity to respond to the complaint, including, at a minimum-- (i) At the discretion of the lead agency, a proposal to resolve the complaint; and (ii) An opportunity for a parent who has filed a complaint and the lead agency, public agency, or EIS provider to voluntarily engage in mediation, consistent with §§303.430(b) and 303.431; (4) Review all relevant information and make an independent determination as to whether the lead agency, public agency, or EIS provider is violating a requirement of Part C of the Act or of</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.433 Minimum State complaint procedures.</u> this part; and (5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains-- (i) Findings of fact and conclusions; and (ii) The reasons for the lead agency's final decision.</p>	
<p><u>§303.512 Minimum State complaint procedures.</u> (b) Time extension; final decisions; implementation. The lead agency's procedures described in paragraph (a) of this section also must— (1) Permit an extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint; and (2) Include procedures for effective implementation of the lead agency's final decision, if needed, including-- (i) Technical assistance activities; (ii) Negotiations; and (iii) Corrective actions to achieve compliance.</p>	<p><u>§303.433 Minimum State complaint procedures.</u> (b) Time extension; final decision; implementation. The lead agency's procedures described in paragraph (a) of this section also must-- (1) Permit an extension of the time limit under paragraph (a) of this section only if-- (i) Exceptional circumstances exist with respect to a particular complaint; or (ii) The parent (or individual or organization, if mediation is available to the individual or organization under State procedures) and the lead agency, public agency or EIS provider involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section; and (2) Include procedures for effective implementation of the lead agency's final decision, if needed, including-- (i) Technical assistance activities; (ii) Negotiations; and (iii) Corrective actions to achieve compliance.</p>	<p>The Department clarifies “The lead agency determines when there are exceptional circumstances with respect to a particular complaint that would justify an extension of the 60-day time limit in that complaint. A lead agency may extend the 60-day time limit due to exceptional circumstances, such as a governmentwide shutdown, if the lead agency needs additional information under §303.433(a)(2) or (a)(3) and the relevant party is unavailable due to hospitalization, or if a parent complainant is unavailable due to illness and cannot provide the additional information under §303.433(a)(2).”</p>
<p><u>§303.512 Minimum State complaint procedures.</u> (c) Complaints filed under this section, and due process hearings under Sec. 303.420. (1) If a</p>	<p><u>§303.433 Minimum State complaint procedures.</u> (c) Complaints filed under this section and due process hearings under §303.430(d). (1) If a</p>	<p>The Department clarified in response to a comment received that “Nothing in the Act prohibits the lead agency from contracting with a third party for State dispute resolution services and §303.433(c)(3)</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.512 Minimum State complaint procedures.</u> written complaint is received that is also the subject of a due process hearing under Sec. 303.420, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved within the 60-calendar-day timeline using the complaint procedures described in paragraphs (a) and (b) of this section. (2) If an issue is raised in a complaint filed under this section that has previously been decided in a due process hearing involving the same parties-- (i) The hearing decision is binding; and (ii) The lead agency must inform the complainant to that effect. (3) A complaint alleging a public agency's or private service provider's failure to implement a due process decision must be resolved by the lead agency.</p>	<p><u>§303.433 Minimum State complaint procedures.</u> written complaint is received that is also the subject of a due process hearing under §303.430(d), or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process hearing must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section. (2) If an issue raised in a complaint filed under this section has previously been decided in a due process hearing involving the same parties-- (i) The due process hearing decision is binding on that issue; and (ii) The lead agency must inform the complainant to that effect. (3) A complaint alleging a lead agency, public agency, or EIS provider's failure to implement a due process hearing decision must be resolved by the lead agency.</p>	<p>would not interfere with a lead agency's ability to enter into such contracts. [The Department] notes, however, in accepting funds under this part, the lead agency is responsible for the administration of Part C in the State and the use of Part C funds under sections 635(a)(10) and 637(a)(1) of the Act. Therefore, the lead agency retains the responsibility for full implementation of the requirements of this part, including the ultimate responsibility for the implementation of State dispute resolution decisions even if the services are being carried out by a third party under contract with the lead agency.”</p>
<p><u>§303.420 Due process procedures.</u> Each system must include written procedures including procedures for mediation as described in § 303.419, for the timely administrative resolution of individual child complaints by parents concerning any of the matters in § 303.403(a). A State may meet this requirement by— (a) Adopting the mediation and due process procedures in 34 CFR 300.506 through 300.512 and developing procedures that meet the requirements of § 303.425; or</p>	<p><u>§303.430 State dispute resolution options.</u> (a) General. Each statewide system must include written procedures for the timely administrative resolution of complaints through mediation, State complaint procedures, and due process hearing procedures, described in paragraphs (b) through (e) of this section. (b) Mediation. Each lead agency must make available to parties to disputes involving any matter under this part the opportunity for mediation that meets the requirements in</p>	<p>The Department explains that “providing States the option of adopting the Part B due process procedures in lieu of using the Part C due process hearing procedures is consistent with the Act. States were provided this option under the original Part C regulations promulgated in 1989 to implement the Education of the Handicapped Act amendments of 1986 (Pub. L. 99-457), which established the early intervention program for infants and toddlers with disabilities.”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.420 Due process procedures.</u> (b) Developing procedures that— (1) Meet the requirements in § 303.419 and §§ 303.421 through 303.425; and (2) Provide parents a means of filing a complaint.</p>	<p><u>§303.430 State dispute resolution options.</u> §303.431. (c) State complaint procedures. Each lead agency must adopt written State complaint procedures to resolve any State complaints filed by any party regarding any violation of this part that meet the requirements in §§303.432 through 303.434. (d) Due process hearing procedures. Each lead agency must adopt written due process hearing procedures to resolve complaints with respect to a particular child regarding any matter identified in §303.421(a), by either adopting-- (1) The Part C due process hearing procedures under section 639 of the Act that-- (i) Meet the requirements in §§303.435 through 303.438; and (ii) Provide a means of filing a due process complaint regarding any matter listed in §303.421(a); or (2) The Part B due process hearing procedures under section 615 of the Act and §§303.440 through 303.449 (with either a 30-day or 45-day timeline for resolving due process complaints, as provided in §303.440(c)).</p>	<p>The Department notes “there are advantages and disadvantages for particular States to use the due process procedures under Part C as opposed to Part B of the Act. The vast majority of States use, and will likely continue to use, the Part C due process procedures in §§303.435 through 303.438 instead of exercising the option to use the Part B due process procedures to resolve disputes under Part C of the Act. This is in part because the Part B due process procedures in §§303.440 through 303.447 contain additional steps and procedures. ...</p> <p>In FFY 2006, approximately 15 States reported exercising the option to adopt the Part B due process procedures while the remaining 41 States (which include the territories and outlying areas) reported adopting the Part C due process procedures. In some of the 15 States that reported using the Part B due process procedures, the lead agency is the SEA and administers both Parts B and C of the Act. In a few other States that reported adopting the Part B due process procedures, children receiving services under Part C of the Act are also entitled to receive, under State law, FAPE, and thus, these States must provide parents with procedural protections under both Parts B and C of the Act.”</p>
<p><u>§303.420 Due process procedures.</u> NOTE 1: Sections 303.420 through 303.425 are concerned with the adoption of impartial procedures for resolving individual child complaints (i.e., complaints that generally affect only a single child or the child’s family). These procedures require the appointment of a decision-maker who is impartial, as defined in § 303.421(b), to resolve a dispute concerning any of the matters</p>		

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.420 Due process procedures.</u> in § 303.403(a). The decision of the impartial decision-maker is binding unless it is reversed on appeal. A different type of administrative procedure is included in §§ 303.510 through 303.512 of subpart F of this part. Under those procedures, the lead agency is responsible for (1) investigating any complaint that it receives (including individual child complaints and those that are systemic in nature), and (2) resolving the complaint if the agency determines that a violation has occurred.</p>		
<p><u>§303.420 Due process procedures.</u> NOTE 2: It is important that the administrative procedures developed by a State be designed to result in speedy resolution of complaints. An infant’s or toddler’s development is so rapid that undue delay could be potentially harmful.</p>		
<p><u>§303.421 Appointment of an impartial person.</u> (a) Qualifications and duties. An impartial person must be appointed to implement the complaint resolution process in this subpart. The person must— (1) Have knowledge about the provisions of this part and the needs of, and services available for, eligible children and their families; and (2) Perform the following duties: (i) Listen to the presentation of relevant viewpoints about the complaint, examine all information relevant to the issues, and seek to reach a timely resolution of the complaint. (ii) Provide a record of the proceedings, including a written decision.</p>	<p><u>§303.435 Appointment of an impartial due process hearing officer.</u> (a) Qualifications and duties. Whenever a due process complaint is received under §303.430(d), a due process hearing officer must be appointed to implement the complaint resolution process in this subpart. The person must-- (1) Have knowledge about the provisions of this part and the needs of, and early intervention services available for, infants and toddlers with disabilities and their families; and (2) Perform the following duties: (i)(A) Listen to the presentation of relevant viewpoints about the due process complaint. (B) Examine all information relevant to the issues. (C) Seek to reach a timely resolution of the due</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.435 Appointment of an impartial due process hearing officer.</u> process complaint. (ii) Provide a record of the proceedings, including a written decision.</p>	
<p><u>§303.421 Appointment of an impartial person.</u> (b) Definition of impartial. (1) As used in this section, impartial means that the person appointed to implement the complaint resolution process— (i) Is not an employee of any agency or other entity involved in the provision of early intervention services or care of the child; and (ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process. (2) A person who otherwise qualifies under paragraph (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the complaint resolution process.</p>	<p><u>§303.435 Appointment of an impartial due process hearing officer.</u> (b) Definition of impartial. (1) Impartial means that the due process hearing officer appointed to implement the due process hearing under this part— (i) Is not an employee of the lead agency or an EIS provider involved in the provision of early intervention services or care of the child; and (ii) Does not have a personal or professional interest that would conflict with his or her objectivity in implementing the process. (2) A person who otherwise qualifies under paragraph (b)(1) of this section is not an employee of an agency solely because the person is paid by the agency to implement the due process hearing procedures or mediation procedures under this part.</p>	
<p><u>§303.422 Parent rights in administrative proceedings.</u> (a) General. Each lead agency shall ensure that the parents of children eligible under this part are afforded the rights in paragraph (b) of this section in any administrative proceedings carried out under § 303.420.</p>	<p><u>§303.436 Parental rights in due process hearing proceedings.</u> (a) General. Each lead agency must ensure that the parents of a child referred to Part C are afforded the rights in paragraph (b) of this section in the due process hearing carried out under §303.430(d).</p>	
<p><u>§303.422 Parent rights in administrative proceedings.</u> (b) Rights. Any parent involved in an administrative proceeding has the right to— (1) Be accompanied and advised by counsel and by</p>	<p><u>§303.436 Parental rights in due process hearing proceedings.</u> (b) Rights. Any parent involved in a due process hearing has the right to-- (1) Be accompanied and advised by counsel and</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.422 Parent rights in administrative proceedings.</u> individuals with special knowledge or training with respect to early intervention services for children eligible under this part; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the proceeding that has not been disclosed to the parent at least five days before the proceeding; (4) Obtain a written or electronic verbatim transcription of the proceeding; and (5) Obtain written findings of fact and decisions.</p>	<p><u>§303.436 Parental rights in due process hearing proceedings.</u> by individuals with special knowledge or training with respect to early intervention services for infants and toddlers with disabilities; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to the parent at least five days before the hearing; (4) Obtain a written or electronic verbatim transcription of the hearing at no cost to the parent; and (5) Receive a written copy of the findings of fact and decisions at no cost to the parent.</p>	
<p><u>§303.423 Convenience of proceedings; timelines.</u> (a) Any proceeding for implementing the complaint resolution process in this subpart must be carried out at a time and place that is reasonably convenient to the parents. (b) Each lead agency shall ensure that, not later than 30 days after the receipt of a parent’s complaint, the impartial proceeding required under this subpart is completed and a written decision mailed to each of the parties.</p>	<p><u>§303.437 Convenience of hearings and timelines.</u> (a) Any due process hearing conducted under this subpart must be carried out at a time and place that is reasonably convenient to the parents. (b) Each lead agency must ensure that, not later than 30 days after the receipt of a parent's due process complaint, the due process hearing required under this subpart is completed and a written decision mailed to each of the parties.</p>	
	<p><u>§303.437 Convenience of hearings and timelines.</u> (c) A hearing officer may grant specific extensions of time beyond the period set out in paragraph (b) of this section at the request of either party.</p>	<p>The Department noted “that extensions to the 30-day timeline in §303.437(b) may be necessary under certain circumstances (such as, unavailability of witnesses, exceptional child and family circumstances, and pending evaluations and assessments).”</p>
<p><u>§303.423 Convenience of proceedings; timelines.</u> NOTE: Under part B of the Act, States are allowed 45 days to conduct an impartial due process hearing (i.e., within 45 days after the receipt of a</p>		

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§303.423 Convenience of proceedings; timelines.</u> request for a hearing, a decision is reached and a copy of the decision is mailed to each of the parties). (See 34 CFR 300.512.) Thus, if a State, in meeting the requirements of § 303.420, elects to adopt the due process procedures under part B, that State would also have 45 days for hearings. However, any State in that situation is encouraged (but not required) to accelerate the timeline for the due process hearing for children who are eligible under this part—from 45 days to the 30-day timeline in this section. Because the needs of children in the birth-through- two-age range change so rapidly, quick resolution of complaints is important.</p>		
<p><u>§303.424 Civil action.</u> Any party aggrieved by the findings and decision regarding an administrative complaint has the right to bring a civil action in State or Federal court under section 639(a)(1) of the Act.</p>	<p><u>§303.438 Civil action.</u> Any party aggrieved by the findings and decision issued pursuant to a due process complaint has the right to bring a civil action in State or Federal court under section 639(a)(1) of the Act.</p>	
<p><u>§303.425 Status of a child during proceedings.</u> (a) During the pendency of any proceeding involving a complaint under this subpart, unless the public agency and parents of a child otherwise agree, the child must continue to receive the appropriate early intervention services currently being provided. (b) If the complaint involves an application for initial services under this part, the child must receive those services that are not in dispute.</p>	<p><u>§303.430 State dispute resolution options.</u> (e) Status of a child during the pendency of a due process complaint. (1) During the pendency of any proceeding involving a due process complaint under paragraph (d) of this section, unless the lead agency and parents of an infant or toddler with a disability otherwise agree, the child must continue to receive the appropriate early intervention services in the setting identified in the IFSP that is consented to by the parents. (2) If the due process complaint under paragraph (d) of this section involves an application for initial services under Part C of the Act, the child must receive those services that are not in dispute.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p>Part B Regulations §300.507 Filing a due process complaint. (a) General. (1) A parent or a public agency may file a due process complaint on any of the matters described in §300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child). (2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in §300.511(f) apply to the timeline in this section.</p>	<p>§303.440 Filing a due process complaint. (a) General. (1) A parent, EIS provider, or a lead agency may file a due process complaint on any of the matters described in §303.421(a), relating to the identification, evaluation, or placement of a child, or the provision of early intervention services to the infant or toddler with a disability and his or her family under Part C of the Act. (2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or EIS provider knew, or should have known, about the alleged action that forms the basis of the due process complaint, or, if the State has an explicit time limitation for filing a due process complaint under this part, in the time allowed by that State law, except that the exceptions to the timeline described in §303.443(f) apply to the timeline in this section.</p>	
<p>Part B Regulations §300.507 Filing a due process complaint. (b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if-- (1) The parent requests the information; or (2) The parent or the agency files a due process complaint under this section.</p>	<p>§303.440 Filing a due process complaint. (b) Information for parents. The lead agency must inform the parent of any free or low-cost legal and other relevant services available in the area if-- (1) The parent requests the information; or (2) The parent or EIS provider files a due process complaint under this section.</p>	
	<p>§303.440 Filing a due process complaint. (c) Timeline for Resolution. The lead agency may adopt a 30- or 45-day timeline, subject to §303.447(a), for the resolution of due process complaints and must specify in its written policies and procedures under §303.123 and in its prior written notice under §303.421, the specific timeline it has adopted.</p>	<p>The Department clarifies the “option in §303.440(c) that allows lead agencies to adopt either a 30- or 45-day timeline to resolve a due process complaint is specific to States that choose to adopt Part B due process procedures under section 615 of the Act. ... This gives States that choose to adopt the Part B due process procedures the flexibility to put in place a timeline shorter than that required under the Part B due process procedures.”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (a) General. (1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential). (2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.</p>	<p><u>§303.441 Due process complaint.</u> (a) General. (1) The lead agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential). (2) The party filing a due process complaint must forward a copy of the due process complaint to the lead agency.</p>	
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include-- (1) The name of the child; (2) The address of the residence of the child; (3) The name of the school the child is attending; (4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending; (5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and (6) A proposed resolution of the problem to the extent known and available to the party at the time.</p>	<p><u>§303.441 Due process complaint.</u> (b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include-- (1) The name of the child; (2) The address of the residence of the child; (3) The name of the EIS provider serving the child; (4) In the case of a homeless child (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the EIS provider serving the child; (5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and (6) A proposed resolution of the problem to the extent known and available to the party at the time.</p>	
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (c) Notice required before a hearing on a due process complaint. A party may not have a hearing</p>	<p><u>§303.441 Due process complaint.</u> (c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party,</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.</p>	<p><u>§303.441 Due process complaint.</u> or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.</p>	
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (d) Sufficiency of complaint. (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section. (2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination. (3) A party may amend its due process complaint only if-- (i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to §300.510; or (ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins. (4) If a party files an amended due process complaint, the timelines for the resolution meeting</p>	<p><u>§303.441 Due process complaint.</u> (d) Sufficiency of complaint. (1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section. (2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements in paragraph (b) of this section, and must immediately notify the parties in writing of that determination. (3) A party may amend its due process complaint only if-- (i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to §303.442; or (ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins. (4) If a party files an amended due process</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> in §300.510(a) and the time period to resolve in §300.510(b) begin again with the filing of the amended due process complaint.</p>	<p><u>§303.441 Due process complaint.</u> complaint, the timelines for the resolution meeting in §303.442(a) and the time period to resolve in §303.442(b) begin again with the filing of the amended due process complaint.</p>	
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (e) LEA response to a due process complaint. (1) If the LEA has not sent a prior written notice under §300.503 to the parent regarding the subject matter contained in the parent’s due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes-- (i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IEP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency’s proposed or refused action. (2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent’s due process complaint was insufficient, where appropriate.</p>	<p><u>§303.441 Due process complaint.</u> (e) Lead agency response to a due process complaint. (1) If the lead agency has not sent a prior written notice under §303.421 to the parent regarding the subject matter contained in the parent’s due process complaint, the lead agency or EIS provider must, within 10 days of receiving the due process complaint, send to the parent a response that includes-- (i) An explanation of why the lead agency or EIS provider proposed or refused to take the action raised in the due process complaint; (ii) A description of other options that the IFSP Team considered and the reasons why those options were rejected; (iii) A description of each evaluation procedure, assessment, record, or report the lead agency or EIS provider used as the basis for the proposed or refused action; and (iv) A description of the other factors that are relevant to the agency’s or EIS provider’s proposed or refused action. (2) A response by the lead agency under paragraph (e)(1) of this section does not preclude the lead agency from asserting that the parent’s due process complaint was insufficient, where appropriate.</p>	
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> (f) Other party response to a due process</p>	<p><u>§303.441 Due process complaint.</u> (f) Other party response to a due process complaint. Except as provided in paragraph (e) of</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.508 Due process complaint.</u> complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.</p>	<p><u>§303.441 Due process complaint.</u> this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.</p>	
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (a) Resolution meeting. (1) Within 15 days of receiving notice of the parent’s due process complaint, and prior to the initiation of a due process hearing under §300.511, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that-- (i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and (ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney. (2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint. (3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if-- (i) The parent and the LEA agree in writing to waive the meeting; or (ii) The parent and the LEA agree to use the mediation process described in §300.506.</p>	<p><u>§303.442 Resolution process.</u> (a) Resolution meeting. (1) Within 15 days of receiving notice of the parent’s due process complaint, and prior to the initiation of a due process hearing under §303.443, the lead agency must convene a meeting with the parent and the relevant member or members of the IFSP Team who have specific knowledge of the facts identified in the due process complaint that-- (i) Includes a representative of the lead agency who has decision-making authority on behalf of that agency; and (ii) May not include an attorney of the lead agency unless the parent is accompanied by an attorney. (2) The purpose of the resolution meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the lead agency has the opportunity to resolve the dispute that is the basis for the due process complaint. (3) The meeting described in paragraphs (a)(1) and (a)(2) of this section need not be held if-- (i) The parent and lead agency agree in writing to waive the meeting; or (ii) The parent and lead agency agree to use the mediation process described in §303.431.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.</p>	<p><u>§303.442 Resolution process.</u> (4) The parent and the lead agency must determine the relevant members of the IFSP Team to attend the meeting.</p>	
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (b) Resolution period. (1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. (2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under §300.515 begins at the expiration of this 30-day period. (3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. (4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in §300.322(d)), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent’s due process complaint. (5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent’s due process complaint or fails to participate in the resolution</p>	<p><u>§303.442 Resolution process.</u> (b) Resolution period. (1) If the lead agency has not resolved the due process complaint to the satisfaction of the parties within 30 days of the receipt of the due process complaint, the due process hearing may occur. (2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under §303.447 begins at the expiration of the 30-day period in paragraph (b)(1) of this section. (3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (b)(2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held. (4) If the lead agency is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, including documenting its efforts, the lead agency may, at the conclusion of the 30-day period, request that the hearing officer dismiss the parent’s due process complaint. (5) If the lead agency fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent’s due process complaint or fails to participate in the resolution meeting, the parent may seek the</p>	<p>The Department explains, “Although this section provides the lead agency with the option to request dismissal, the lead agency is not required to request a dismissal and may agree instead to an extension of the time to conduct a resolution meeting in order for the parties to continue mediation efforts. Additionally, it is the due process hearing officer who determines whether dismissal of the due process complaint is warranted, based not only on the lead agency’s request, if one is made, but also based on any parent’s response. The availability of both the lead agency’s option to request dismissal and the impartial hearing officer’s determination ensures that dismissal of a due process complaint is based on case-specific circumstances.”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.</p>	<p><u>§303.442 Resolution process.</u> intervention of a hearing officer to begin the due process hearing timeline.</p>	
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (c) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in §300.515(a) starts the day after one of the following events: (1) Both parties agree in writing to waive the resolution meeting; (2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible; (3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.</p>	<p><u>§303.442 Resolution process.</u> (c) Adjustments to 30-day resolution period. The 30- or 45-day timeline adopted by the lead agency under §303.440(c) for the due process hearing described in §303.447(a) starts the day after one of the following events: (1) Both parties agree in writing to waive the resolution meeting. (2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible. (3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or lead agency withdraws from the mediation process.</p>	
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is-- (1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and (2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements,</p>	<p><u>§303.442 Resolution process.</u> (d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (a)(2) of this section, the parties must execute a legally binding agreement that is-- (1) Signed by both the parent and a representative of the lead agency who has the authority to bind the agency; and (2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the lead agency, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> pursuant to §300.537.</p>	<p><u>§303.442 Resolution process.</u> agreements pursuant to this section.</p>	
<p><u>Part B Regulations</u> <u>§300.510 Resolution process.</u> (e) Agreement review period. If the parties execute an agreement pursuant to paragraph (c) of this section, a party may void the agreement within 3 business days of the agreement’s execution.</p>	<p><u>§303.442 Resolution process.</u> (e) Agreement review period. If the parties execute an agreement pursuant to paragraph (d) of this section, a party may void the agreement within three business days of the agreement’s execution.</p>	
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (a) General. Whenever a due process complaint is received under §300.507 or §300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§300.507, 300.508, and 300.510.</p>	<p><u>§303.443 Impartial due process hearing.</u> (a) General. Whenever a due process complaint is received consistent with §303.440, the parents or the EIS provider involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in §§303.440 through 303.442.</p>	
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.</p>	<p><u>§303.443 Impartial due process hearing.</u> (b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the lead agency directly responsible for the early intervention services of the infant or toddler, as determined under State statute, State regulation, or a written policy of the lead agency.</p>	<p>The Department “removed in §303.446(b) the authority for a public agency (other than the lead agency) to conduct due process hearings when a State adopts under §303.430(d) the Part B due process procedures.”</p>
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (c) Impartial hearing officer. (1) At a minimum, a hearing officer-- (i) Must not be— (A) An employee of the SEA or the LEA that is involved in the education or care of the child; or (B) A person having a personal or professional</p>	<p><u>§303.443 Impartial due process hearing.</u> (c) Impartial hearing officer. (1) At a minimum, a hearing officer-- (i) Must not be-- (A) An employee of the lead agency or the EIS provider that is involved in the early intervention services or care of the infant or toddler; or (B) A person having a personal or professional</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> interest that conflicts with the person’s objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts; (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. (3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.</p>	<p><u>§303.443 Impartial due process hearing.</u> interest that conflicts with the person’s objectivity in the hearing; (ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts; (iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and (iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice. (2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer. (3) Each lead agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.</p>	
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §300.508(b), unless the other party agrees otherwise.</p>	<p><u>§303.443 Impartial due process hearing.</u> (d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under §303.441(b), unless the other party agrees otherwise.</p>	
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their</p>	<p><u>§303.443 Impartial due process hearing.</u> (e) Timeline for requesting a hearing. A parent, lead agency, or EIS provider must request an impartial hearing on their due process complaint</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.</p>	<p><u>§303.443 Impartial due process hearing.</u> within two years of the date the parent, lead agency, or EIS provider knew or should have known about the alleged action that forms the basis of the due process complaint, or if the State has an explicit time limitation for requesting such a due process hearing under this part, in the time allowed by that State law.</p>	
<p><u>Part B Regulations</u> <u>§300.511 Impartial due process hearing.</u> (f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to-- (1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or (2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.</p>	<p><u>§303.443 Impartial due process hearing.</u> (f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to-- (1) Specific misrepresentations by the lead agency or EIS provider that it had resolved the problem forming the basis of the due process complaint; or (2) The lead agency's or EIS provider's failure to provide the parent information that was required under this part to be provided to the parent.</p>	
<p><u>Part B Regulations</u> <u>§300.512 Hearing rights.</u> (a) General. Any party to a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534, or an appeal conducted pursuant to §300.514, has the right to-- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at</p>	<p><u>§303.444 Hearing rights.</u> (a) General. Any party to a hearing conducted pursuant to §§303.440 through 303.445, or an appeal conducted pursuant to §303.446, has the right to-- (1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of infants or toddlers with disabilities; (2) Present evidence and confront, cross-examine, and compel the attendance of witnesses; (3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p>Part B Regulations §300.512 Hearing rights. least five business days before the hearing; (4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.</p>	<p>§303.444 Hearing rights. hearing; (4) Obtain a written or, at the option of the parents, electronic, verbatim record of the hearing; and (5) Obtain written or, at the option of the parents, electronic findings of fact and decisions.</p>	
<p>Part B Regulations §300.512 Hearing rights. (b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to §300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party’s evaluations that the party intends to use at the hearing. (2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.</p>	<p>§303.444 Hearing rights. b) Additional disclosure of information. (1) At least five business days prior to a hearing conducted pursuant to §303.443(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party’s evaluations that the party intends to use at the hearing. (2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.</p>	
<p>Part B Regulations §300.512 Hearing rights. (c) Parental rights at hearings. Parents involved in hearings must be given the right to-- (1) Have the child who is the subject of the hearing present; (2) Open the hearing to the public; and (3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.</p>	<p>§303.444 Hearing rights. c) Parental rights at hearings. Parents involved in hearings must (1) Be given the right to open the hearing to the public; and (2) Receive a copy of the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section at no cost.</p>	<p>The Department clarified that “While parents always have the right to determine whether their infant or toddler is present at a hearing, we do not believe it is necessary to specify this right in §303.444(c)(1) because, in general, infants and toddlers with disabilities do not need to be present to either serve as witnesses at, or required participants in, a due process hearing. However, [the Department] notes that under either the Part B or Part C due process hearing procedures, a parent is in the best position to decide whether an infant or toddler will attend the due process hearing.”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.513 Hearing decisions.</u> (a) Decision of hearing officer on the provision of FAPE. (1) Subject to paragraph (a)(2) of this section, a hearing officer’s determination of whether a child received FAPE must be based on substantive grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies-- (i) Impeded the child’s right to a FAPE; (ii) Significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or (iii) Caused a deprivation of educational benefit. (3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under §§300.500 through 300.536.</p>	<p><u>§303.445 Hearing decisions.</u> (a) Decision of hearing officer. (1) Subject to paragraph (a)(2) of this section, a hearing officer’s determination of whether an infant or toddler was appropriately identified, evaluated, or placed, or whether the infant or toddler with a disability and his or her family were appropriately provided early intervention services under Part C of the Act, must be based on substantive grounds. (2) In matters alleging a procedural violation, a hearing officer may find that a child was not appropriately identified, evaluated, placed, or provided early intervention services under Part C of the Act only if the procedural inadequacies-- (i) Impeded the child’s right to identification, evaluation, and placement or provision of early intervention services for the child and that child’s family under Part C of the Act; (ii) Significantly impeded the parent’s opportunity to participate in the decision-making process regarding identification, evaluation, placement or provision of early intervention services for the child and that child’s family under Part C of the Act; or (iii) Caused a deprivation of educational or developmental benefit. (3) Nothing in paragraph (a) of this section precludes a hearing officer from ordering the lead agency or EIS provider to comply with procedural requirements under §§303.400 through 303.449.</p>	
<p><u>Part B Regulations</u> <u>§300.513 Hearing decisions.</u> (b) Construction clause. Nothing in §§300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process</p>	<p><u>§303.445 Hearing decisions.</u> (b) Construction clause. Nothing in §§303.440 through 303.445 affects the right of a parent to file an appeal of the due process hearing decision with the lead agency under §303.446(b), if the lead</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.513 Hearing decisions.</u> hearing decision with the SEA under §300.514(b), if a State level appeal is available.</p>	<p><u>§303.445 Hearing decisions.</u> agency level appeal is available.</p>	
<p><u>Part B Regulations</u> <u>§300.513 Hearing decisions.</u> (c) Separate request for a due process hearing. Nothing in §§300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.</p>	<p><u>§303.445 Hearing decisions.</u> (c) Separate due process complaint. Nothing in §§303.440 through 303.449 precludes a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.</p>	
<p><u>Part B Regulations</u> <u>§300.513 Hearing decisions.</u> (d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must-- (1) Transmit the findings and decisions referred to in §300.512(a)(5) to the State advisory panel established under §300.167; and (2) Make those findings and decisions available to the public.</p>	<p><u>§303.445 Hearing decisions.</u> (d) Findings and decisions to general public. The lead agency, after deleting any personally identifiable information, must make the findings and decisions available to the public.</p>	
<p><u>Part B Regulations</u> <u>§300.514 Finality of decision; appeal; impartial review.</u> (a) Finality of hearing decision. A decision made in a hearing conducted pursuant to §§300.507 through 300.513 or §§300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and §300.516.</p>	<p><u>§303.446 Finality of decision; appeal; impartial review.</u> (a) Finality of hearing decision. A decision made in a hearing conducted pursuant to §§303.440 through 303.445 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and §303.448.</p>	
<p><u>Part B Regulations</u> <u>§300.514 Finality of decision; appeal; impartial review.</u> (b) Appeal of decisions; impartial review. (1) If the hearing required by §300.511 is conducted by a</p>	<p><u>§303.446 Finality of decision; appeal; impartial review.</u> (b) Appeal of decisions; impartial review. (1) The lead agency may provide for procedures to allow any party aggrieved by the findings and</p>	<p>The Department “retained the authority for the lead agency to establish procedures that would allow any party aggrieved by the findings and decision in the due process hearing to appeal to, or request reconsideration of the decision by, the lead agency.</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.514 Finality of decision; appeal; impartial review.</u> public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA. (2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must-- (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §300.512 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.</p>	<p><u>§303.446 Finality of decision; appeal; impartial review.</u> decision in the hearing to appeal to the lead agency. (2) If there is an appeal, the lead agency must conduct an impartial review of the findings and decision appealed. The official conducting the review must-- (i) Examine the entire hearing record; (ii) Ensure that the procedures at the hearing were consistent with the requirements of due process; (iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in §303.444 apply; (iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official; (v) Make an independent decision on completion of the review; and (vi) Give a copy of the written or, at the option of the parents, electronic findings of fact and decisions to the parties.</p>	<p>If the lead agency establishes such procedures, those procedures must meet the same requirements in §303.446(b), (c), and (d).”</p>
<p><u>Part B Regulations</u> <u>§300.514 Finality of decision; appeal; impartial review.</u> (c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must-- (1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under §300.167; and (2) Make those findings and decisions available to the public.</p>	<p><u>§303.446 Finality of decision; appeal; impartial review</u> (c) Findings of fact and decision to the general public. The lead agency, after deleting any personally identifiable information, must make the findings of fact and decisions described in paragraph (b)(2)(vi) of this section available to the general public.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.514 Finality of decision; appeal; impartial review.</u> (d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under §300.516.</p>	<p><u>§303.446 Finality of decision; appeal; impartial review.</u> (d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under §303.448.</p>	
<p><u>Part B Regulations</u> <u>§300.515 Timelines and convenience of hearings and reviews.</u> (a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under §300.510(b), or the adjusted time periods described in §300.510(c)-- (1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties.</p>	<p><u>§303.447 Timelines and convenience of hearings and reviews.</u> (a) The lead agency must ensure that not later than either 30 days or 45 days (consistent with the lead agency’s written policies and procedures adopted under §303.440(c)) after the expiration of the 30-day period in §303.442(b), or the adjusted 30-day time periods described in §303.442(c)-- (1) A final decision is reached in the hearing; and (2) A copy of the decision is mailed to each of the parties.</p>	
<p><u>Part B Regulations</u> <u>§300.515 Timelines and convenience of hearings and reviews.</u> (b) The SEA must ensure that not later than 30 days after the receipt of a request for a review-- (1) A final decision is reached in the review; and (2) A copy of the decision is mailed to each of the parties.</p>	<p><u>§303.447 Timelines and convenience of hearings and reviews.</u> (b) The lead agency must ensure that not later than 30 days after the receipt of a request for a review-- (1) A final decision is reached in the review; and (2) A copy of the decision is mailed to each of the parties.</p>	
<p><u>Part B Regulations</u> <u>§300.515 Timelines and convenience of hearings and reviews.</u> (c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.</p>	<p><u>§303.447 Timelines and convenience of hearings and reviews.</u> (c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.515 Timelines and convenience of hearings and reviews.</u> (d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.</p>	<p><u>§303.447 Timelines and convenience of hearings and reviews.</u> (d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.</p>	
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (a) General. Any party aggrieved by the findings and decision made under §§300.507 through 300.513 or §§300.530 through 300.534 who does not have the right to an appeal under §300.514(b), and any party aggrieved by the findings and decision under §300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under §300.507 or §§300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.</p>	<p><u>§303.448 Civil action.</u> (a) General. Any party aggrieved by the findings and decision made under §§303.440 through 303.445 who does not have the right to an appeal under §303.446(b), and any party aggrieved by the findings and decision under §303.446(b), has the right to bring a civil action with respect to the due process complaint under §303.440. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.</p>	
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (b) Time limitation. The party bringing the action shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part B of the Act, in the time allowed by that State law.</p>	<p><u>§303.448 Civil action.</u> (b) Time limitation. The party bringing the action has 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action, or, if the State has an explicit time limitation for bringing civil actions under Part C of the Act, in the time allowed by that State law.</p>	
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (c) Additional requirements. In any action brought under paragraph (a) of this section, the court--</p>	<p><u>§303.448 Civil action.</u> (c) Additional requirements. In any action brought under paragraph (a) of this section, the court--</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.</p>	<p><u>§303.448 Civil action.</u> (1) Receives the records of the administrative proceedings; (2) Hears additional evidence at the request of a party; and (3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.</p>	
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.</p>	<p><u>§303.448 Civil action.</u> (d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.</p>	
<p><u>Part B Regulations</u> <u>§300.516 Civil action.</u> (e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.</p>	<p><u>§303.448 Civil action.</u> (e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under §§303.440 and 303.446 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.</p>	
<p><u>Part B Regulations</u> <u>§300.537 State enforcement mechanisms.</u> Notwithstanding §§300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a</p>	<p><u>§303.449 State enforcement mechanisms.</u> Notwithstanding §§303.431(b)(6) and 303.442(d)(2), which provide for judicial enforcement of a written agreement reached as a result of a mediation or a resolution meeting, there</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p>Part B Regulations <u>§300.537 State enforcement mechanisms.</u> result of mediation or a resolution meeting, there is nothing in this part that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States.</p>	<p><u>§303.449 State enforcement mechanisms.</u> is nothing in this part that would prevent the State from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court or competent jurisdiction or in a district court of the United States.</p>	
<p><u>§303.460 Confidentiality of information.</u> (a) Each State shall adopt or develop policies and procedures that the State will follow in order to ensure the protection of any personally identifiable information collected, used, or maintained under this part, including the right of parents to written notice of and written consent to the exchange of this information among agencies consistent with Federal and State law.</p>	<p><u>§303.401 Confidentiality and opportunity to examine records.</u> (a) General. Each State must ensure that the parents of a child referred under this part are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with Federal and State laws.</p>	
	<p><u>§303.401 Confidentiality and opportunity to examine records.</u> (b) Confidentiality procedures. As required under sections 617(c) and 642 of the Act, the regulations in §§303.401 through 303.417 ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including the State lead agency and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR part 99. Each State must have procedures in effect to ensure that--</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.401 Confidentiality and opportunity to examine records.</u></p> <p>(1) Participating agencies (including the lead agency and EIS providers) comply with the Part C confidentiality procedures in §§303.401 through 303.417; and</p> <p>(2) The parents of infants or toddlers who are referred to, or receive services under this part, are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under this part, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this part.</p>	
	<p><u>§303.401 Confidentiality and opportunity to examine records.</u></p> <p>(c) Applicability and timeframe of procedures. The confidentiality procedures described in paragraph (b) of this section apply to the personally identifiable information of a child and the child's family that--</p> <p>(1) Is contained in early intervention records collected, used, or maintained under this part by the lead agency or an EIS provider; and</p> <p>(2) Applies from the point in time when the child is referred for early intervention services under this part until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable Federal and State laws.</p>	<p>The Department clarified "that the Part C confidentiality procedures apply from the point in time when the child is referred for early intervention services, and thus, do not apply prior to a referral. ...the confidentiality provisions under Part C of the Act do not apply to primary referral sources. Thus, Part C does not prohibit the lead agency or an EIS provider from accepting a referral of a child to the State Part C system from a primary referral source. However, the primary referral source may be required to obtain parental consent prior to making a referral under other applicable laws (such as HIPAA, CAPTA, or State laws). "</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.401 Confidentiality and opportunity to examine records.</u></p> <p>(d) Disclosure of information. (1) Subject to paragraph (e) of this section, the lead agency must disclose to the SEA and the LEA where the child resides, in accordance with §303.209(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under the Act:</p> <ul style="list-style-type: none"> (i) A child’s name. (ii) A child’s date of birth. (iii) Parent contact information (including parents’ names, addresses, and telephone numbers). <p>(2) The information described in paragraph (d)(1) of this section is needed to enable the lead agency, as well as LEAs and SEAs under Part B of the Act, to identify all children potentially eligible for services under §303.211 and Part B of the Act.</p>	
	<p><u>§303.401 Confidentiality and opportunity to examine records.</u></p> <p>(e) Option to inform a parent about intended disclosure. (1) A lead agency, through its policies and procedures, may require EIS providers, prior to making the limited disclosure described in paragraph (d)(1) of this section, to inform parents of a toddler with a disability of the intended disclosure and allow the parents a specified time period to object to the disclosure in writing.</p> <p>(2) If a parent (in a State that has adopted the policy described in paragraph (e)(1) of this section) objects during the time period provided by the State, the lead agency and EIS provider are not permitted to make such a disclosure under paragraph (d) of this section and §303.209(b)(1)(i)</p>	<p>The Department explained that “Permitting States to adopt an opt-out policy, rather than opt-in policy, which would require the lead agency to obtain affirmative parental consent before disclosure of the limited information identified in §303.401(d)(1) to the LEA or SEA, allows States the flexibility to balance the privacy interests of parents of children receiving Part C services and the lead agency’s, SEA’s, and LEA’s respective responsibilities to identify children potentially eligible for services under Part B of the Act, and to ensure a smooth transition from the State’s Part C program to its Part B program. Parents as well as other stakeholders and members of the public have an opportunity to provide input when the State circulates its LEA notification policies for public participation as required in §303.208(b).”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<u>§303.401 Confidentiality and opportunity to examine records.</u> and (b)(1)(ii).	
<u>§303.460 Confidentiality of information.</u> (b) These policies and procedures must meet the requirements in 34 CFR 300.560 through 300.576, with the modifications specified in § 303.5(b).		
<u>§303.460 Confidentiality of information.</u> NOTE: With the modifications referred to in paragraph (b) of this section, the confidentiality requirements in the regulations implementing part B of the Act (34 CFR 300.560 through 300.576) are to be used by public agencies to meet the confidentiality requirements under part C of the Act and this section (§ 303.460). The part B provisions incorporate by reference the regulations in 34 CFR part 99 (Family Educational Rights and Privacy); therefore, those regulations also apply to this part.		
<u>Part B Regulations</u> <u>§300.610 Confidentiality.</u> The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with §§300.611 through 300.627.	<u>§303.402 Confidentiality.</u> The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected, maintained, or used by the Secretary and by lead agencies and EIS providers pursuant to Part C of the Act, and consistent with §§303.401 through 303.417. The regulations in §§303.401 through 303.417 ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this part by the Secretary and by participating agencies, including the State lead agency and EIS providers, in accordance with the Family Educational Rights	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.402 Confidentiality.</u> and Privacy Act (FERPA), 20 U.S.C. 1232g, and 34 CFR part 99.</p>	
<p><u>Part B Regulations</u> <u>§300.611 Definitions.</u> As used in §§300.611 through 300.625-- (a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.</p>	<p><u>§303.403 Definitions.</u> The following definitions apply to §§303.402 through 303.417 in addition to the definition of personally identifiable information in §303.29 and disclosure in 34 CFR 99.3: (a) Destruction means physical destruction of the record or ensuring that personal identifiers are removed from a record so that the record is no longer personally identifiable under §303.29.</p>	
<p><u>Part B Regulations</u> <u>§300.611 Definitions.</u> As used in §§300.611 through 300.625-- (b) Education records means the type of records covered under the definition of “education records” in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).</p>	<p><u>§303.403 Definitions.</u> (b) Early intervention records mean all records regarding a child that are required to be collected, maintained, or used under Part C of the Act and the regulations in this part.</p>	
<p><u>Part B Regulations</u> <u>§300.611 Definitions.</u> As used in §§300.611 through 300.625-- (c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.</p>	<p><u>§303.403 Definitions.</u> (c) Participating agency means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in Part C of the Act and the regulations in this part with respect to a particular child. A participating agency includes the lead agency and EIS providers and any individual or entity that provides any Part C services (including service coordination, evaluations and assessments, and other Part C services), but does not include primary referral sources, or public agencies (such as the State Medicaid or CHIP program) or private</p>	<p>The Department added “this provision to distinguish between those primary referral sources that perform primarily a child find function and those entities that serve as funding sources only. We have clarified that this term does not include primary referral sources (unless they are also EIS providers), or public agencies (such as the State Medicaid or CHIP program), or private entities (such as private insurance companies) that act solely as funding sources for Part C services.”</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.403 Definitions.</u> entities (such as private insurance companies) that act solely as funding sources for Part C services.</p>	
<p><u>Part B Regulations</u> <u>§300.612 Notice to parents.</u> (a) The SEA must give notice that is adequate to fully inform parents about the requirements of §300.123, including-- (1) A description of the extent that the notice is given in the native languages of the various population groups in the State; (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information; (3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.</p>	<p><u>§303.404 Notice to parents.</u> The lead agency must give notice when a child is referred under Part C of the Act that is adequate to fully inform parents about the requirements in §303.402, including-- (a) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information; (b) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; (c) A description of all the rights of parents and children regarding this information, including their rights under the Part C confidentiality provisions in §§303.401 through 303.417; and (d) A description of the extent that the notice is provided in the native languages of the various population groups in the State.</p>	<p>The Department noted “it would be helpful for lead agencies under Part C of the Act to know when the general notice requirement applies. Requiring the lead agency to provide parents with notice of its general confidentiality policies and procedures, including document retention and destruction procedures, when a child is referred under Part C of the Act ensures that parents are aware of the nature and scope of their rights under these policies and procedures. States may choose to provide this general notice at additional appropriate times, such as annual IFSP meetings, but we have not required that it be provided at each such meeting because of the burden this would place on the State and because the prior written notice requirements in §303.421 already require a summary of each of the procedural safeguards. ...[The Department] has added language to §303.404 that reflects that requirement, which is also in 34 CFR 300.612 of the Part B regulations. The prior written notice and procedural safeguards notice requirements in §303.421(c)(1)(ii) require that the child-specific notice be in the parent’s native language or other mode of communication used by the parent, unless it is clearly not feasible to do so, and that the notice include a description of the procedural safeguards, including confidentiality requirements under subpart C of this part.”</p>
<p><u>§300.612 Notice to parents.</u> (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both,</p>		

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p>§300.612 Notice to parents. with circulation adequate to notify parents throughout the State of the activity.</p>		
<p>Part B Regulations §300.613 Access rights. (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to §300.507 or §§300.530 through 300.532, or resolution session pursuant to §300.510, and in no case more than 45 days after the request has been made.</p>	<p>§303.405 Access rights. (a) Each participating agency must permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a parent’s request to inspect and review records without unnecessary delay and before any meeting regarding an IFSP, or any hearing pursuant to §§303.430(d) and 303.435 through 303.439, and in no case more than 10 days after the request has been made.</p>	<p>The Department agreed with those who submitted comments “that a 10-day deadline would be more appropriate to ensure access to early intervention records when parents have filed a request for a due process hearing. [The Department] has changed the timeline for agency compliance with a parent’s request to inspect and review records to 10 calendar days after the parent makes the request.</p>
<p>§300.613 Access rights. (b) The right to inspect and review education records under this section includes-- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records; (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) The right to have a representative of the parent inspect and review the records.</p>	<p>§303.405 Access rights. (b) The right to inspect and review early intervention records under this section includes-- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the early intervention records; (2) The right to request that the participating agency provide copies of the early intervention records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and (3) The right to have a representative of the parent inspect and review the early intervention records.</p>	
<p>§300.613 Access rights. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised</p>	<p>§303.405 Access rights. (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§300.613 Access rights.</u> that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.</p>	<p><u>§303.405 Access rights.</u> provided documentation that the parent does not have the authority under applicable State laws governing such matters as custody, foster care, guardianship, separation, and divorce.</p>	
<p><u>Part B Regulations</u> <u>§300.614 Record of access.</u> Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.</p>	<p><u>§303.406 Record of access.</u> Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under Part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.</p>	
<p><u>Part B Regulations</u> <u>§300.615 Records on more than one child.</u> If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.</p>	<p><u>§303.407 Records on more than one child.</u> If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.</p>	
<p><u>Part B Regulations</u> <u>§300.616 List of types and locations of information.</u> Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.</p>	<p><u>§303.408 List of types and locations of information.</u> Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.</p>	
<p><u>Part B Regulations</u> <u>§300.617 Fees.</u> (a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and</p>	<p><u>§303.409 Fees for records.</u> (a)Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p>Part B Regulations <u>§300.617 Fees.</u> review those records.</p>	<p>§303.409 Fees for records. provided in paragraph (c) of this section.</p>	
<p>Part B Regulations <u>§300.617 Fees.</u> (b) A participating agency may not charge a fee to search for or to retrieve information under this part.</p>	<p>§303.409 Fees for records. (b) A participating agency may not charge a fee to search for or to retrieve information under this part.</p>	
	<p>§303.409 Fees for records. (c) A participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as soon as possible after each IFSP meeting.</p>	<p>The Department agreed with those who submitted comments “in order to help parents to be full and equal participants in the IFSP process parents must receive a copy of their child’s evaluation, assessments, and IFSP. Thus, [the Department] has added in new §303.409(c) that each evaluation, assessment, and IFSP must be provided to the parent. ...the lead agency must ensure that specific activities, including conducting evaluations and assessments, developing and reviewing IFSPs, and implementing procedural safeguards, are provided at no cost to parents. Thus, [the Department] has added in new §303.409(c) the requirement that these records be provided to parents at no cost. Requiring States to provide a copy of evaluations, assessments, and IFSPs to parents, from the child’s early intervention record, should not be a burden to States. As a standard practice, most States already provide these documents at no cost to parents.</p> <p>...Concerning the request that the IFSP be provided at the conclusion of the IFSP meeting, [the Department] declines to add this specific timeline but agree that it is important to specify when these documents must be provided. ...a copy of each evaluation, assessment of the child, family assessment, and IFSP must be provided to the parent as soon as possible after each IFSP meeting. “</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.618 Amendment of records at parent's request.</u> (a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.</p>	<p><u>§303.410 Amendment of records at a parent's request.</u> (a) A parent who believes that information in the early intervention records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.</p>	<p>The Department agrees that the protections ...should apply to information about the parent as well as the child, but do not agree that the right to amend a record extends to information about other family members.because the definition of personally identifiable information ...includes a list of personal characteristics or other information that would make the child's or parent's identity easily traceable. Therefore, [the Department] has added the reference to the parent, but not to the family."</p>
<p><u>Part B Regulations</u> <u>§300.618 Amendment of records at parent's request.</u> (b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.</p>	<p><u>§303.410 Amendment of records at a parent's request.</u> (b) The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.</p>	
<p><u>Part B Regulations</u> <u>§300.618 Amendment of records at parent's request.</u> (c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.</p>	<p><u>§303.410 Amendment of records at a parent's request.</u> (c) If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under §303.411.</p>	
<p><u>Part B Regulations</u> <u>§300.619 Opportunity for a hearing.</u> The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.</p>	<p><u>§303.411 Opportunity for a hearing.</u> The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in §303.430(d)(1) provided that such hearing procedures meet the requirements of the hearing procedures in §303.413 or may request a hearing directly under</p>	<p>The Department notes that "permitting this option to parents provides parents with the benefits of the 30-day timeline if the State has adopted Part C due process hearings under §303.430(d) without imposing an additional burden on States that already have such procedures in place."</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p>§303.411 Opportunity for a hearing. the State’s procedures in §303.413 (i.e., procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).</p>	
<p>Part B Regulations §300.620 Result of hearing. (a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.</p>	<p>§303.412 Result of hearing. (a) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must amend the information accordingly and so inform the parent in writing.</p>	
<p>Part B Regulations §300.620 Result of hearing. (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent’s right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.</p>	<p>§303.412 Result of hearing. (b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.</p>	
<p>Part B Regulations §300.620 Result of hearing. (c) Any explanation placed in the records of the child under this section must-- (1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.</p>	<p>§303.412 Result of hearing. (c) Any explanation placed in the early intervention records of the child under this section must-- (1) Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency; and (2) If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.621 Hearing procedures.</u> A hearing held under §300.619 must be conducted according to the procedures in 34 CFR 99.22.</p>	<p><u>§303.413 Hearing procedures.</u> A hearing held under §303.411 must be conducted according to the procedures under 34 CFR 99.22.</p>	
<p><u>Part B Regulations</u> <u>§300.622 Consent.</u> (a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99.</p>	<p><u>§303.414 Consent prior to disclosure or use.</u> (a) Except as provided in paragraph (b) of this section, prior parental consent must be obtained before personally identifiable information is-- (1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section; or (2) Used for any purpose other than meeting a requirement of this part.</p>	
	<p><u>§303.414 Consent prior to disclosure or use.</u> (b) A lead agency or other participating agency may not disclose personally identifiable information, as defined in §303.29, to any party except participating agencies (including the lead agency and EIS providers) that are part of the State’s Part C system without parental consent unless authorized to do so under-- (1) Sections 303.401(d), 303.209(b)(1)(i) and (b)(1)(ii), and 303.211(b)(6)(ii)(A); or (2) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this part, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR part 99 to Part C, the reference to-- (i) 34 CFR 99.30 means §303.414(a);</p>	<p>The department has “incorporated as specific exceptions to the parental consent requirement in §303.414(b)(2) of these Part C regulations the specific exceptions to the written parental consent requirement in 34 CFR 99.31(a) of the FERPA regulations (where applicable to Part C), reference to the pertinent conditions in 34 CFR 99.32 through 99.39, and added appropriate modification provisions in §303.414(b)(2)(i) through (b)(2)(vii).”</p> <p>The Department notes “there may be circumstances when the lead agency or an EIS provider may not have the authority to provide documents in the child’s early intervention record to a third party, even after receiving parental consent for disclosure of personally identifiable information. For example, a lead agency or EIS provider may not have the authority to disclose third-party medical records. In these cases, the lead agency or EIS provider would instruct the parent to make such a request to the</p>

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
	<p><u>§303.414 Consent prior to disclosure or use.</u> (ii) “Education records” means early intervention records under §303.403(b); (iii) “Educational” means early intervention under this part; (iv) “Educational agency or institution” means the participating agency under §303.404(c); (v) “School officials and officials of another school or school system” means qualified personnel or service coordinators under this part; (vi) “State and local educational authorities” means the lead agency under §303.22; and (vii) “Student” means child under this part.</p>	<p>third party for the document or information.’</p>
	<p><u>§303.414 Consent prior to disclosure or use.</u> (c) The lead agency must provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part), provided that those procedures do not override a parent’s right to refuse consent under §303.420.</p>	
<p><u>Part B Regulations</u> <u>§300.623 Safeguards.</u> (a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.</p>	<p><u>§303.415 Safeguards.</u> (a) Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.</p>	
<p><u>Part B Regulations</u> <u>§300.623 Safeguards.</u> (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.</p>	<p><u>§303.415 Safeguards.</u> (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>Part B Regulations</u> <u>§300.623 Safeguards.</u> (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State’s policies and procedures under §300.123 and 34 CFR part 99.</p>	<p><u>§303.415 Safeguards.</u> (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State’s policies and procedures under §§303.401 through 303.417 and 34 CFR part 99.</p>	
<p><u>Part B Regulations</u> <u>§300.623 Safeguards.</u> (d) Each participating agency 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.</p>	<p><u>§303.415 Safeguards.</u> (d) Each participating agency 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.</p>	<p>The Department indicates “This requirement is necessary because the public has a right to know who may have access to personally identifiable information about their child and family. The method a participating agency uses to implement the provisions in §303.415(d) is best left to the participating agency to determine. The agency 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, regardless of whether such information is maintained electronically or as a written record.”</p>
<p><u>Part B Regulations</u> <u>§300.624 Destruction of information.</u> (a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.</p>	<p><u>§303.416 Destruction of information.</u> (a) The participating agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide services to the child under Part C of the Act, the GEPA provisions in 20 U.S.C. 1232f, and EDGAR, 34 CFR parts 76 and 80.</p>	<p>The Department notes “there may be lead agencies that are unaware of the applicability of GEPA to the Part C program; accordingly, it is important that §303.416(a) identify the specific citations to those GEPA and EDGAR provisions concerning the maintenance, use, disclosure, and destruction of records. Thus, we have revised the citation to GEPA provisions to refer to 20 U.S.C. 1232f, which contains fiscal recordkeeping requirements. Lead agencies that are not SEAs may be similarly unfamiliar with the provisions in parts 76 and 80 of EDGAR that apply to the early intervention records, including, for example, the recordkeeping requirements in 34 CFR 80.42(b).”</p>
<p><u>§300.624 Destruction of information.</u> (b) The information must be destroyed at the</p>	<p><u>§303.416 Destruction of information.</u> (b) Subject to paragraph (a) of this section, the</p>	

SUBPART E- PROCEDURAL SAFEGUARDS		
1999 Part C or 2006 Part B Regulations	2011 Part C Regulations	U.S. Department of Education Selected Analysis of Comments and Changes
<p><u>§300.624 Destruction of information.</u> request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.</p>	<p><u>§303.416 Destruction of information.</u> information must be destroyed at the request of the parents. However, a permanent record of a child's name, date of birth, parent contact information (including address and phone number), names of service coordinator(s) and EIS provider(s), and exit data (including year and age upon exit, and any programs entered into upon exiting) may be maintained without time limitation.</p>	
<p><u>Part B Regulations</u> <u>§300.626 Enforcement.</u> The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with §§300.611 through 300.625 are followed and that the requirements of the Act and the regulations in this part are met.</p>	<p><u>§303.417 Enforcement.</u> The lead agency must have in effect the policies and procedures, including sanctions and the right to file a complaint under §§303.432 through 303.434, that the State uses to ensure that its policies and procedures, consistent with §§303.401 through 303.417, are followed and that the requirements of the Act and the regulations in this part are met.</p>	<p>The Department has “amended §303.417 to indicate that the lead agency must have in effect the policies and procedures, including sanctions and the right to file a complaint under §§303.432 through 303.434, that a State uses to ensure that its policies and procedures, consistent with §§303.401 through 303.417, are followed and that the requirements of the Act and the regulations in this part are met.”</p>