



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

July 23, 2007

Ms. Alexa Posny
U.S. Department of Education
400 Maryland Avenue, S.W.
Potomac Center Plaza, room 5126
Washington, D.C. 20202-2641

Re: IDEA – Part C Proposed Regulations: Docket ID – ED-2007-OSERS-131

Dear Ms. Posny:

The Child Abuse Prevention Task Force of the Consortium for Citizens with Disabilities (CCD), a coalition of approximately 100 national disability advocacy organizations, is pleased to offer comments to the Proposed Regulations guiding the implementation of Part C of the Individuals with Disabilities Act. The Task Force also works with and supports the comments submitted on behalf of the National Child Abuse Coalition.

Maltreatment of children adversely affects their health and developmental status. Researchers have found that approximately 46 percent of maltreated children would be found eligible for early intervention services. The high rates of health and developmental problems among children in child welfare services results both from the increased vulnerability to maltreatment that comes from having a disability and the fact that these problems can occur as a consequence of abuse and neglect. Although these children are candidates for Part C, there is reason to believe that only a small number are actually enrolled in services.¹ Because of this strong nexus between maltreatment, disability, and under-enrollment in Part C, the Child Abuse Prevention Task Force helped to incorporate several important changes affecting children with disabilities in the 2003 Child Abuse Prevention and Treatment Act, including the provision for referral of a child under age 3, in a substantiated case of abuse or neglect, to early intervention services funded under IDEA Part C. The Task Force also supported the corresponding 2004 IDEA provisions that require states to have “policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect” [Sec.637(a)(6)(A)]. Under IDEA, every child under three involved in a substantiated case of child abuse or neglect are required to be screened to determine whether a referral to early intervention services is warranted.

The CCD Child Abuse Prevention Task Force applauds the Administration for including regulations that guide states in implementing these important provisions.

Following are our comments regarding the May 9, 2007 Notice of Proposed Rulemaking for Part C of IDEA.

¹ Rosenberg, Steven A., Smith, E., & Levinson, A. (2006) *Rates of Part C Eligibility for Young Maltreated Children*. Report to U.S. Department of Education. University of Colorado at Denver and Health Sciences Center, University of Connecticut Health Center.

REFERRALS UNDER THE CHILD FIND SYSTEM OR DISCRETIONARY REFERRALS THROUGH INCLUSION AS AN AT-RISK INFANT OR TODDLER – §§ 303.302(a)-(b) and 303.5

Recommendations:

We propose that the provision setting out the circumstances under which a referral is mandatory under the child find system be amended to include certain conditions which are well known to cause significant developmental delays: exposure to alcohol abuse, fetal alcohol exposure, abuse or neglect (including abandonment), and having a substantiated case of trauma due to exposure to family violence.

§ 303.302(a)-(b)

(a) General.

(1) The child find system described in § 303.301 must include procedures for use by primary referral sources for referring a child to the Part C system for

(i) Evaluation and assessment, in accordance with § 303.320; and

(ii) As appropriate, the provision of early intervention services, in accordance with §§ 303.342 through 303.345.

(b) The procedures required in paragraph (a) of this section must provide for requiring the referral of child under the age of three who –

(1) Is involved in a substantiated case of ***or is exposed to*** abuse or neglect (***including abandonment***); or

(2) Is identified as affected by illegal substance ***or alcohol*** abuse or withdrawal symptoms resulting from prenatal drug ***or alcohol*** exposure;

(3) Is identified as having a substantiated case of trauma due to exposure to family violence.

**REFERRAL OF CHILDREN WHO HAVE EXPERIENCED TRAUMA –
303.211(b)(7)**

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Recommendations

We recommend revising the regulation that currently requires that only children age 3 and older who experience trauma be referred to the early intervention system to include all Part C eligible children who meet this criterion. This recommendation is consistent with the description of this regulation in the Department's comments which state that *all* children eligible for Part C, including but not limited to those over age 3 in states that opt to permit children to remain in Part C, be referred for screening if they experience trauma and violence.

We suggest clarifying the parental consent language of the provision regarding the referral of children who experience trauma as a result of exposure to family violence to ensure the safety and confidentiality of the parent or caretaker who was the victim of abuse while ensuring that children are appropriately referred for screening.

Proposed Regulatory Language:

303.211(b)(7): State option to make services available to children ages three and older ***who experience trauma***

(b)(7) For all children eligible for part C services, including children ages three and older in States that adopt the option to make services under this part available to children ages three and older, there will be a referral to the Part C system, dependent upon parental consent, of a child under the age of three who directly experiences a substantiated case of trauma due to exposure to family violence. Where it is suspected that a child's parent or caretaker may also be at risk of violence, any referral and/or consent shall be accomplished in a manner to protect the safety and confidentiality of the parent or caretaker who may be at risk.

TIMELINE UNDER THE CHILD FIND SYSTEM – § 303.302

Recommendation:

Specify a two-day limit for referring a child under the child find system to the extent that this is practicable.

Proposed Regulatory Language:

§303.302

- (a) General. (The child find system described in Sec. 303.301 must include procedures for use by primary referral sources for referring a child to the Part C system for – ...
- (b) Referral of specific at-risk children. The procedures required in paragraph (a) of this section must provide for requiring the referral of a child under the age of three who – ...
- (c) Primary referral sources. As used in this subpart, primary referral sources include – ...
- (d) Referral of a child under this provision shall occur within two working days to the extent practicable after the child has been identified.**

EARLY INTERVENTION SERVICES AND PERSONNEL DEVELOPMENT SENSITIVE TO THE NEEDS OF CHILDREN IN THE CHILD WELFARE SYSTEM – §§ 303.112 and 303.118

Recommendations:

Add a reference to “approaches specific to the needs of children who have experienced abuse or neglect (including abandonment)” in the provision requiring appropriate early intervention services to be based on scientifically-based research.

Include a parallel reference in the provision detailing personnel development system requirements. Reference Early Intervention Services to include services to enhance a family’s capacity to meet the developmental needs of the family’s infant or toddler, where child abuse or neglect has been substantiated, with family support services, parent leadership, and respite care.

Proposed Regulatory Language:

§ 303.112

Each system must include a State policy that is in effect and that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, ***including approaches specific to the needs of children who have experienced or have been exposed to abuse or neglect (including abandonment). These services shall be made*** and are available to all infants and toddlers with disabilities and their families, including –

- (a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and
- (b) Infants and toddlers with disabilities who are homeless children and their families

§ 303.118

Each system must include a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State, that— ...

- (b) May include—
 - (1) Training personnel to work in rural and inner-city areas;
 - (2) Training personnel in the emotional and social development of young children, ***including approaches specific to the needs of children who have experienced or have been exposed to abuse, neglect, (including abandonment)***; and
 - (3) Training personnel to support families in participating fully in the development and implementation of the child’s IFSP.

§303.13

Early intervention services.

- (a) General. Early intervention services means developmental services that--...
- (b) Types of early intervention services. Subject to paragraph (d) of this section, early intervention services include the following services defined in this paragraph:...

(3) Family training, counseling, family support, parent leadership, respite care and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development....

(10) Social work services includes--

- (i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
- (ii) Preparing a social or emotional developmental assessment of the infant or toddler within the family context;
- (iii) Providing individual and family-group counseling with parents and other family members, and appropriate social skill-building activities with the infant or toddler and parents;
- (iv) Working with those problems in the living situation (home, community, and any center where early intervention services are provided) of an infant or toddler with a disability and the family of that child that affect the child's maximum utilization of early intervention services; and
- (v) Identifying, mobilizing, and coordinating community resources and services to enable the infant or toddler with a disability and the family to receive maximum benefit from early intervention services, **including such services as family support, parent leadership, and respite care to enhance a family's capacity to meet the developmental needs of the family's infant or toddler.**

STATEMENT OF SUPPORT FOR PROVISIONS CONCERNING PRIMARY REFERRAL SOURCES – §§ 303.302(c)(9)-(11), 303.301(c)(1)(i), 303.301(c)(1)(ii)(G), and 303.301(c)(1)(ii)(I); AND FOR PROVISIONS CONCERNING PARENTAL CONSENT AND NOTICE -- § 303.420(b)-(c)(1)

Explanation of Support:

We support the following proposed revisions to Part C as advanced by the Department:

The explicit inclusion of child protective services, foster care, homeless family shelters, and domestic violence shelters as primary referral sources in § 303.302(c)(9)-(11). Making sure that the agencies most engaged with children in the child welfare system have information about Part C and are required to make appropriate referrals is an important recognition that Part-C eligible children in child welfare are not adequately identified and served.

The explicit inclusion of child protection programs, foster care, State agencies responsible for CAPTA administration, and programs providing services under the Family Violence Prevention and Services Act in the child find system coordination requirements, §§ 303.301(c)(1)(i), 303.301(c)(1)(ii)(G), and 303.301(c)(1)(ii)(I). These provisions properly recognize the important role of those agencies that have the most direct contact with children in the child welfare system and their families.

The provision in § 303.420(b)-(c)(1), in the case of a parent who declines services for a child, requiring the lead agency to make reasonable efforts to ensure that the parent fully understands the nature of the evaluation and assessment or services offered and that parental consent is required for the child to receive the evaluation and assessment or services, while providing the authority for the lead agency to use due process procedures to challenge the parent's refusal to give such consent. This provision properly addresses the instance of a child who is involved in a substantiated case of child abuse or neglect in which the parent may not always be available or capable of giving informed or constructive consent to the attention the child needs, whether through the parent's involvement with substance abuse, or serious mental illness, or other circumstances which interfere with the parent's ability to act on behalf of the child. Providing a process by which the lead agency might intervene for the child's well-being is an important course of action to have available.

IV DEFINITIONS

Recommendations:

The Task Force requests the inclusion of a definition for the term "scientifically-based" that is referred to in several places in the Regulations (303.112; 303.704). Guidance should ensure that single-subject, correlational, and qualitative research are included in the definition along with random assignment experiments.

The Task Force is concerned about the proposed change in 303.24 regarding the definition of “multidisciplinary”. Permitting one individual to represent a multidisciplinary perspective is not consistent with recommended practice. The Task Force suggests retaining the current definition at 303.17

Thank you for this opportunity to comment on the proposed regulations to Part C of the IDEA. For questions or more information about our comments, please feel free to contact the Co-Chairs of the Child Abuse Prevention Task Force.

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The Consortium for Citizens with Disabilities is a coalition of more than 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. (A list of members is available at www.c-c-d.org) Since 1973, CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully included in the mainstream of society.