

PROPOSED AMENDMENTS

Title 17 Public Health
Division 2. Health and Welfare Agency
Department of Developmental Services

Chapter 2: Early Intervention Services

Section 52000. Meaning of Words

- (a) Words shall have their usual meaning unless the context of a definition clearly indicates a different meaning. Words used in their present tense include the future tense; words in the singular form include the plural form. Use of the word "shall" denotes mandatory conduct; "may" denotes permissive conduct.
- (b) The following definitions shall apply to the words used in this subchapter:
- (1) **Acidemia** means an excessive acidity of the blood wherein the acid-base balance of the body is disturbed.
 - (2) **Adaptive development** means the acquisition of skills that are required to meet environmental demands. Adaptive development includes, but is not limited to, activities of self-care, such as dressing, eating, toileting, self-direction, environmental problem-solving and attention/arousal.
 - (3) **Asphyxia neonatorum** means a condition caused by insufficient oxygen at or near the time of birth.
 - (4) **Assessment** means the ongoing procedures used by qualified personnel throughout the period of an infant's or toddler's eligibility for early intervention services to identify the infant's or toddler's unique strengths and needs and the services appropriate to meet those needs. Assessment also includes the identification of the family's resources, priorities, and concerns regarding the development of the infant or toddler and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the eligible infant or toddler.
 - (5) **Authorized representative** means the parent or guardian of a minor, or person who is legally entitled to act on behalf of the infant, toddler or family.
 - (6) **Biomedical insult** is a general term referring to those biological or medical conditions such as infection or brain injury which may result in developmental delay or disability.
 - (7) **Cognitive development** means the acquisition of learning through ongoing interactions with the environment. Cognitive development involves perceiving, thinking, problem solving and remembering information.
 - (8) **Communication development** means the acquisition of expressive and/or receptive language skills which include

understanding and/or using any of the following: gestures, facial expressions, speech reading, sign language, body postures and vocal and visual contacts with another person.

- (9) **Complainant** means any individual or organization filing a written complaint pursuant to the provisions of Subchapter 5, Article 3.
- (10) **Concerns** means areas that family members identify as needs, issues or problems they want.
- (11) **Day** means calendar day unless otherwise stated.
- (12) **Early intervention services** means those services designed to meet the developmental needs of each eligible infant or toddler and the needs of the family related to the infant's or toddler's development. The services include but are not limited to assistive technology; audiology; family training; counseling and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services, occupational therapy; physical therapy; psychological services; service coordination; social work services; special instruction; speech and language services; transportation and related costs; and vision services. Early intervention services may include such services as respite and other family support services.
- (13) **Evaluation** means procedures used by qualified personnel to determine an infant's or toddler's present level of development.
- (14) **Exceptional circumstances** means events beyond the control of the regional center or local education agency (LEA). These include but are not limited to the infant's or toddler's or parent's illness, the infant's or toddler's and parent's absence from the geographical area, inability to locate the parent, or a natural disaster. Delays caused by the failure to obtain copies of existing records or other administrative events do not constitute exceptional circumstances.
- (15) **Family** means the primary caregivers and others who assume major long-term roles in an infant's or toddler's daily life.
- (16) **Fine motor** means the use of muscles that control small and detailed movements of the body, as an example, in the hand related to manual dexterity and coordination.
- (17) **Funded Capacity** means the number of eligible infants, between 12 and 16 students per instructional unit, that the California Department of Education requires LEAs to serve to maintain funding for their classes/programs/services in a given year pursuant to Education Code section 56728.8 as it read on November 1, 1993.
- (18) **Gross motor** means the use of large muscle groups of the body, arms, or legs, as in sitting up, walking, or balancing.
- (19) **Health status** means a description of the physical and mental condition of an infant or toddler. Health status may include current diagnoses, medications, required regular medical procedures, current medical supplies and technological devices, primary and

especially care providers, and immunization status, nutrition and oral health.

- (20) **Hearing impairment** means a condition, whether permanent or fluctuating, which impairs the processing of linguistic information through hearing, even with amplification, and which adversely affects an infant's or toddler's development. Processing linguistic information includes speech and language reception and speech and language discrimination.
- (21) **Hyperbilirubinemia** means a condition in which an excessive amount of bilirubin, a bile pigment released from the breakdown of red blood cells, is in the blood.
- (22) **Hypertonia** means a condition of excessive tone or tension in the skeletal muscles.
- (23) **Hypotonia** means a condition of diminished tone of the skeletal muscles.
- (24) **Hypoglycemia** means a condition in which the blood sugar is abnormally low.
- (25) **Immediate need** means a situation in which an infant or toddler requires early intervention services without delay pursuant to a physician's order or written determination by the multidisciplinary team specifying consequences of a delay in the provision of services.
- (26) **Individual program plan (IPP)** means a plan developed for persons with developmental disabilities to describe the provisions of services and supports to meet the written goals and objectives pursuant to Welfare and Institutions Code sections 4646-4648.
- (27) **Individualized education program (IEP)** means a written statement that is developed and implemented pursuant to Title 20 United States Code Section 1401(b)(20).
- (28) **Individualized family service plan (IFSP)** means a written plan for providing early intervention services to infants or toddlers and their families who have been determined eligible for early intervention services. The plan must: (A) Be developed in accordance with Sections 52100 through 52110; and, (B) Be based on the evaluation and assessment processes described in Sections 52082 through 52086 of these regulations.
- (29) **Informed clinical opinion** means the judgment of a qualified professional who is a member of the multidisciplinary team. Informed clinical opinion is based on but is not limited to opinions derived from: a review of records, parental and professional observation of the infant or toddler, and professional knowledge.
- (30) **Language of the parent's choice means** a primary written or oral language or mode of communication that the family chooses as a means of communication. Language of the parent's choice may be the native language. If the parent is deaf or blind or has no written

- language, the mode of communication shall be that normally used by the parent such as sign language, braille, or oral communication.
- (31) **Local education agency (LEA)** means the school district in which the infant or toddler resides or the county office of education or the special education local plan area (SELPA) that is responsible for providing early intervention services to infants and toddlers with disabilities.
- (32) **Low incidence disability** means a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12. For purposes of this definition, severe disabling conditions are hearing impairments, vision impairments, and severe orthopedic impairments, or any combination thereof.
- (33) **Mediation** means a voluntary resolution process in which an impartial third party may assist the disagreeing parties to resolve issues prior to a due process hearing.
- (34) **Multidisciplinary team** means two or more individuals of various disciplines or professions, and the parent, who participate in the provision of integrated and coordinated services, including evaluation, assessment, and IFSP development.
- (35) **Natural environments** means settings that are natural or typical for the infant or toddler's age peers who have no disability including the home and community settings in which children without disabilities participate.
- (36) **Parent** means a parent, ~~guardian or a person acting as a parent of an infant or toddler such as a grandparent or stepparent with whom an infant or toddler lives. Parent also means a person who is legally responsible for the infant's or toddler's welfare or a surrogate parent who has been appointed in accordance with 34 CFR 303.406. The term does not include the State if an infant or toddler is a ward of the State.~~ a natural or adoptive parent (such as a grandparent or step parent with whom the child lives, a guardian or a person who is legally responsible for the child's welfare) or a surrogate parent who has been assigned in accordance with 34 CFR 303.46 or 17 CCR 52175 of these regulations.

- Parent may mean a foster parent if the natural parents' authority to make the decisions required of parents has been limited or relinquished under State law; and the foster parent has no interest that would conflict with the interests of the child.
- (37) **Payor of last resort** means the regional center or LEA that is required to pay for early intervention services listed on the IFSP when third party payers or other agencies do not have an obligation to pay as required by 34 CFR 303.527.
- (38) **Personally identifiable information** means information that includes:

- (A) The full name of the infant or toddler, infant's or toddler's parent, or other family member.
 - (B) The address of the infant or toddler.
 - (C) A personal identifier, such as the infant's or toddler's or parent's social security number; or A list of personal characteristics or other information that would make it possible to identify the infant or toddler with reasonable certainty.
 - (D) A list of personal characteristics or other information that would make it possible to identify the infant or toddler with reasonable certainty.
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- (39) **Physical development** means the acquisition of fine and gross motor skills involved in functional movement.
 - (40) **Priorities** means a family's choice for the focus of early intervention services as well as for the ways in which early intervention services will be incorporated into the family's day-to-day organization, routine and planning.
 - (41) **Qualified** means that a person meets state certification, licensing, credentialing, registration, or other comparable requirements for the area in which he or she is providing early intervention services, or, in the absence of such approved or recognized requirements, meets the Department of Developmental Services or California Department of Education requirements.
 - (42) **Record** means the documentation in the infant's or toddler's regional center client file and/or the LEA's cumulative file.
 - (43) **Regional center** means a diagnostic, counseling and service coordination center for persons with developmental disabilities and their families which is established and operated pursuant to Chapter 5 of Division 4.5 of the Welfare and Institutions Code, Sections 4620 through 4669, by a private nonprofit community agency/corporation acting as a contractor for the Department of Developmental Services.
 - (44) **Referral** means the receipt of oral or written information that causes a record to be opened for an infant or toddler who may be eligible for early intervention services.
 - (45) **Resources** means the strengths, abilities, formal and informal supports of the family available to meet the developmental needs of the infant or toddler.
 - (46) **Severe orthopedic impairment** means a condition which adversely affects an infant's or toddler's development. Such orthopedic impairments include impairments caused by congenital anomaly, impairments caused by disease and impairments from other causes which may affect functional movement and/or growth.
 - (47) **Social or emotional development** means the acquisition of capacities for human relationships, emotional expression,

communication and learning. Social or emotional development is based on the motivation to engage in positive interaction and to sustain personal relationships and precedes the development of effective coping skills, self esteem and the ability to take advantage of opportunities for learning. Differences in temperament, self regulation, range and intensity of affect and modulating one's response to the environment are additional factors influencing social or emotional development.

- (48) **Solely low incidence disability** means one or a combination of low incidence disabilities which are vision impairment, severe orthopedic impairment, and hearing impairment which is the primary disability and has a significant impact on learning and development of the infant or toddler as determined by the IFSP team of the LEA. The infant or toddler who has a solely low incidence disability shall not be eligible for services from a regional center.
- (49) **Teratogen** means an agent or factor that causes the production of physical defects in the developing embryo.
- (50) **Vision impairment** means a visual condition which, even with correction, adversely affects the infant's or toddler's development.

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections 95014 and 95028, Government Code; Sections 30001(x) and 3030, Title 5 California Code of Regulations; Sections 1432, 1436 and 1440, Title 20 United States Code; Sections 303.12, 303.16, 303.17, 303.1948, 303.21, 303.321, 303.322, 303.340, 303.342, 303.343, 303.344, 303.345, 303.401, 303.402, 303.403, 303.406, 303.420, 303.511 and 303.527 Title 34 Code of Federal Regulations.

Section 52082 Procedures for Evaluation and Assessment to Determine Eligibility

- (a) The determination of eligibility for an infant or toddler shall be made by qualified personnel of the regional center or LEA. The determination shall be made with the participation of the multidisciplinary team including the parent.
- (b) ~~Evaluation and assessment to determine eligibility~~ shall be based on informed clinical opinion and include:
 - (1) A review of pertinent records related to the infant or toddler's health status and medical history provided by qualified health professionals who have evaluated or assessed the infant or toddler;
 - (2) Information obtained from parental observation and report; and,

- (3) Evaluation by qualified personnel of the infant's or toddler's level of functioning in each of the following areas:
 - (A) Cognitive development;
 - (B) Physical and motor development, including vision and hearing;
 - (C) Communication development;
 - (D) Social or emotional development; and,
 - (E) Adaptive development.
- (c) No single procedure shall be used as the sole criterion for determining an infant's or toddler's eligibility.
- (d) Standardized tests or instruments may be used as part of the evaluation specified in 52082(b) above, and, if used, they shall:
 - (1) Be selected to ensure that, when administered to an infant or toddler with impaired sensory, motor or speaking skills, the tests produce results that accurately reflect the infant's or toddler's aptitude, developmental level, or any other factors the test purports to measure and not the infant's or toddler's impaired sensory, motor or speaking skills unless those skills are the factors the test purports to measure;
 - (2) Be validated for the specific purpose for which they are used.
- (e) If standardized, normed or criterion referenced instruments are used as part of the evaluation specified in 52082(b) above, a significant difference between an infant's or toddler's current level of functioning and the expected level of development for his or her age shall be established when an infant's or toddler's age equivalent score falls one third below age expectation.
- (f) Procedures and materials for evaluation and assessment of infants and toddlers shall be selected and administered so as not to be racially or culturally discriminatory.
- (g) Infants or toddlers with solely low incidence disabilities shall be evaluated and assessed by qualified personnel of the LEA whose professional preparation, license or credential authorization are specific to the suspected disability.
- (h) Regional centers, LEAs and multidisciplinary teams shall not presume or determine eligibility, including eligibiltiy for medical services provided through the Department of Health Services, for any other state or local government program or service when conducting evaluations or assessments of an infant or toddler or their family.
- (i) Evaluations for eligibility shall be conducted in natural environments whenever possible.

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections 303.300(b) and (c), 303.322, 303.344 and 303.323(b) and (c), Title 34 Code of Federal Regulations; and Sections 95014(a)(1) and 95016, Government Code.

Section 52084. Assessment for Service Planning

- (a) Assessment for service planning for eligible infants or toddlers shall identify all of the following:
 - (1) The infant or toddler's unique strengths and needs in each of the five areas specified in Section 52082(b)(3);
 - (2) Early intervention and other services appropriate to meet the needs identified in (a)(1) of this subsection; and,
 - (3) If the family consents to a family assessment, the resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of an infant or toddler with a disability.

- (b) For purposes of service planning, regional centers and LEAs may use existing evaluation materials if the multidisciplinary team agrees that the existing materials adequately describe the levels of development and service needs for the infant or toddler.

- (c) Assessment for service planning shall be based on age appropriate methods and procedures which may include any of the following:
 - (1) A review of information related to the infant's or toddler's health status and medical history provided by qualified health professionals who have evaluated or assessed the infant or toddler;
 - (2) Developmental observations by qualified personnel and the parent;
 - (3) Other procedures used by qualified personnel to determine the presence of a developmental delay, established risk condition, or high risk for a developmental disability; and,
 - (4) Standardized tests or instruments.

- (d) Assessments of family resources, priorities and concerns related to enhancing the development of the infant or toddler shall be voluntary on the part of the family. The family assessment shall:
 - (1) Be conducted by qualified personnel trained to utilize appropriate methods and procedures;
 - (2) Be based on information provided by the family through a personal interview;
 - (3) Incorporate the family's description of its resources, priorities and concerns related to enhancing the development of the infant or toddler; and,

- (4) Be conducted in the language of the family's choice or other mode of communication unless it is not feasible to do so.
- (e) ~~Evaluations pursuant to Section 52082 and a~~ Assessments for service planning shall be conducted in natural environments whenever possible.

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections Sections 1435(a)(3) and 1436(a)(1), Title 20 United States Code; Section 303.322, Title 34 Code of Federal Regulations; and Sections 95014 and 95016, Government Code.

Section 52109. Basis for the Provision of and Payment for Services Through Regional Centers

- (a) Regional centers shall provide, arrange, or purchase early intervention services, as required by the infant's or toddler's IFSP, and be payor of last resort for infants and toddlers determined eligible for early intervention services as:
 - (1) Developmentally delayed pursuant to 52022(a);
 - (2) Established risk pursuant to 52022(b)(1); or,
 - (3) High risk for developmental disability pursuant to 52022(c).
- (b) Regional centers shall be the payor of last resort after all other public ~~and private~~ sources for payment have been reviewed to determine if a referral shall be made by the service coordinator and/or the parent. Referrals may include but not be limited to California Children Services, Medi-Cal, or ~~private insurance providers~~ or other public agencies that may have responsibility for payment. This review shall not delay the provision of early intervention services specified on the IFSP. Early Intervention services specified on the IFSP shall begin as soon as possible.
- (c) The use of the family's private insurance to pay for early intervention services, as required by the infant or toddler's IFSP, shall be voluntary.

For purposes of this subsection, voluntary means that parents have been informed of their right to receive services at no cost to the family.

Informed written consent shall be obtained from the parents before the family's private insurance is used to pay for required early intervention services.

Authority: Sections 95009 and 95028, Government Code.

Reference: Section 1435(a)(4), Title 20 United States Code; Sections 303.12, 303.522 and 303.527(c), Title 34 Code of Federal Regulations; and Section 95020(d), Government Code.

Section 52170. Complaint Procedures

- (a) A complaint shall be a written and signed statement alleging that a regional center, LEA or any private service provider receiving funds under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code, Sections 1431-1445, has violated a federal or state law or regulation governing the provision of early intervention services provided through Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, for infants or toddlers and their families.
- (b) Any individual or organization may file a complaint.
- (c) The alleged violation must have occurred:
- (1) Not more than one year before the date that the complaint is received by the Department of Developmental Services unless a longer period is reasonable because the alleged violation continues for that child or other children; or
 - (2) Not more than three years before the date on which the complaint is received by the Department of Developmental Services, if the complainant is requesting reimbursement or corrective action as remediation of the complaint.
- ~~(e)~~(d) The procedures under Chapter 1, commencing with Section 4500 of Division 4.5 of the Welfare and Institutions Code or Part 30, commencing with Section 56500 of the Education Code, or Title 5 California Code of Regulations Section 4600 et seq., shall not be used for resolving complaints regarding California's Early Start Program.
- ~~(d)~~(e) Each regional center and LEA shall inform the parent and other interested individuals or organizations of the right to file a complaint directly with the Department of Developmental Services at the following address:
- Department of Developmental Services
Office of Human Rights
Attention: Chief, Early Start Program Development Section Complaint Unit
1600 Ninth Street, Room 240, M.S. 2-15
Sacramento, CA 95814
- ~~(e)~~(f) If the complainant is unable to provide the complaint in writing, the service coordinator shall directly assist the complainant or provide assistance to identify resources which can aid the complainant in completing the written complaint.
- ~~(f)~~(g) The complaint shall include the following:
- (1) The name, address and phone number of the complainant;

- (2) A statement that a regional center, LEA or any private service provider receiving funds under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, has violated a federal or state law or regulation governing the provision of early intervention services for infants or toddlers and their families in California;
- (3) A statement of facts upon which the alleged violation is based;
- (4) The party allegedly responsible; and,
- (5) A description of the voluntary steps taken at the local level to resolve the complaint, if any.

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections 303.22 and 303.520-303.512, Title 34 Code of Federal Regulations; and Section 95007(f), Government Code.

Section 52171. Complaint Investigation

- (a) Within 60 days of receipt of the complaint the Department of Developmental Services shall:
 - (1) Assign the investigation of the complaint to a state interagency team or to the appropriate state agency that is responsible for the administration of the regional center, LEA or any private service provider receiving funds under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, named in the complaint, which shall:
 - (A) Conduct an investigation, on-site if necessary; and,
 - (B) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
 - (2) Review all relevant information and make a determination as to whether there has been a violation of a statutory or regulatory requirement contained in:
 - (A) Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445;
 - (B) The Federal regulations pertaining to Part C of the Individuals with Disabilities Education Act;
 - (C) The California Early Intervention Services Act, Government Code Sections 95000-95030;
 - (D) Regulations contained in this chapter;
 - (E) Welfare and Institutions Code, Division 4.5, Chapter 5, beginning with Section 4500; or,
 - (F) Education Code beginning with Sections 56425 through 56431.
 - (3) Provide a written decision to all parties which addresses each allegation and includes:

- (A) Findings and conclusions;
 - (B) The reasons for the final decision;
 - (C) The required corrective actions;
 - (D) Time lines for completion of the corrective actions; and,
 - (E) Provisions for technical assistance.
- (4) If the decision of the Department of Developmental Services includes remedies for denial of appropriate services, the remedies may include:
- (A) Actions to remediate 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
 - (B) Actions to assure that services are provided appropriately in the future for infants and toddlers with disabilities and their families
- ~~(4) Inform all parties involved in the complaint that the final decision may be appealed to the U.S. Secretary of Education.~~
- (b) An extension of the time limit under paragraph (a) of this Section shall be made by the Department of Developmental Services when events beyond the control of the Department of Developmental Services occur including but not limited to the complainant's illness, the complainant's absence from the geographical area, inability to locate the complainant, or a natural disaster.
- (c) If a written complaint is received that is also the subject of a due process hearing pursuant to 34 CFR 303.420 and 17 CCR 52172 and 52174, or contains multiple issues, of which one or more are part of that hearing, the Department of Developmental Services shall set aside any part of the complaint that is being addressed in the due process hearing, until the conclusion of the hearing. Any issue in the complaint that is not part of the due process action will be resolved by the Department of Developmental Services within the 60 calendar-day time line using the complaint procedures described in this section.
- (d) 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, the hearing decision is binding, and the Department of Developmental Services shall inform the complainant to that effect.
- (e) The Department of Developmental Services shall resolve any complaint alleging the failure of a public agency or private service provider to implement a due process decision.

Authority: Sections 95009 and 95028, Government Code.

Reference: Sections 303.22 and 303.520-303.512, Title 34 Code of Federal Regulations; and Section 95007(f), Government Code.

Section 52173. Mediation Procedures

- (a) Mediation shall be voluntary.
- (b) The matter being mediated shall proceed to a scheduled due process hearing if either party waives mediation or if mediation fails in whole or in part. The mediator may assist the parties in specifying any unresolved issue(s) to be included in the hearing request.
- (c) The mediation conference shall be conducted by a mediator who is an impartial, third party with no personal or professional interest that would conflict with his or her objectivity in mediating a disagreement.
- (d) The due process hearing officer shall be a different person than the mediator when mediation does not resolve the disagreement.
- (e) The mediator shall be trained in communication, mediation and problem solving and shall be knowledgeable about early intervention programs and the federal and state laws and regulations applicable to Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445, and the California Early Intervention Services Act, Government Code Sections 95000-95030.
- (f) The mediator shall be under contract with the Department of Developmental Services.
- (g) A person who otherwise qualifies under Subsection (c) and (d) of this Section as a mediator is not an employee of the Department of Developmental Services solely because the person is paid by the Department of Developmental Services to conduct the mediation process.
- (h) A parent may be accompanied by any representative at the mediation.
- (i) The mediator shall ensure that written agreements from the mediation conference are signed and provided to all participants at the conclusion of the mediation conference.
- (j) Discussions during mediation must be confidential and may not be used as evidence in any subsequent due process or civil proceedings.

Authority: Sections 95009 and 95028, Government Code.

Reference: Section 1439(1), Title 20 United States Code; Sections 303.420(a)-(b) and accompanying notes, 303.421(a)-(b) and 303.422, Title 34 Code of Federal Regulations.

Section 52175. Surrogate Parents

- (a) Regional centers or LEAs shall assign an individual to act as a surrogate parent if:
 - (1) No parent can be identified;
 - (2) The infant or toddler is a dependent of the juvenile court and the parental rights of the parent have been limited by the court or relinquished; or,
 - (3) The parent cannot be located, after reasonable efforts by the regional center or LEA.

- (b) Interagency agreements as required in Section 52140(b)(12) shall include procedures for:
 - (1) Determining whether an infant or toddler needs a surrogate parent;
 - (2) Assigning a surrogate parent to the infant or toddler consistent with the provisions of this Article and Government Code section 7579.5;
 - (3) Ensuring that surrogates have no interest that conflicts with the interests of the infant or toddler he or she represents;
 - (4) Ensuring that surrogates have knowledge and skills that ensure adequate representation of the infant or toddler;
 - (5) Ensuring that the surrogate parent is not an employee of any state agency regional center, LEA or service provider involved in the provision of early intervention services to the infant or toddler. A person who otherwise qualifies as a surrogate parent is not an employee solely because he or she is paid by a state agency, regional center or LEA to serve as a surrogate parent.

- (c) A surrogate parent may represent an infant or toddler in all matters related to:
 - (1) The evaluation and assessment of the infant or toddler;
 - (2) Development and implementation of the infant's or toddler's IFSP including annual evaluations, assessments and periodic reviews;
 - (3) The ongoing provision of early intervention services to the infant or toddler;
 - (4) Requesting mediation or due process hearings; and,
 - (5) Any other early intervention service established under Part C of the Individuals with Disabilities Education Act, Title 20 United States Code Sections 1431-1445.

- (d) A surrogate parent may not provide consent for medical services for which consent by a parent or legal guardian is required.

Authority: Sections 95009 and 95028, Government Code.

Reference: Section 1439(5), Title 20 United States Code; Sections 303.18 and 303.406(a-e), Title 34 Code of Federal Regulations; and Section 95022(f), Government Code.