

5123-10-02

Early intervention program - eligibility and services.**(A) Purpose**

This rule sets forth the early intervention program requirements for eligibility, developmental screening, evaluation, assessment, individualized family service plan meetings and content, transition to preschool and other programs, service coordination, early intervention records, and exiting and transferring from the early intervention program.

(B) Definitions

For the purposes of this rule, the following definitions shall apply:

- (1) "Assessment" means the ongoing procedures used by qualified personnel or an early intervention service coordinator on a multidisciplinary team to identify a child's unique strengths and needs, and the early intervention services appropriate to meet those needs throughout the period of the child's eligibility. It also refers to the family-directed assessment as completed by qualified personnel to identify the family's resources, priorities, and concerns.
- (2) "Consent" means that a parent:
 - (a) Has been informed of the information relevant to the activity for which consent is sought, in the parent's native language;
 - (b) Agrees in writing to the carrying out of the activity for which the parent's consent is sought; and
 - (c) Understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time and that if the parent revokes consent, revocation is not retroactive.
- (3) "Department" means the Ohio department of developmental disabilities.
- (4) "Developmental delay" means that a child has not reached developmental milestones expected for his or her chronological age as measured by qualified personnel using appropriate diagnostic instruments and/or procedures.
- (5) "Developmental screening" means activities carried out by, or under the supervision of, an early intervention service provider to identify, at the earliest possible age, children suspected of having a developmental delay or disability.

- (6) "Duration" means projecting when a given service will no longer be provided (such as when a child is expected to achieve the outcomes in his or her individualized family service plan or until a child turns three years of age).
- (7) "Early intervention program" means Ohio's statewide system that provides coordinated services to parents of infants and toddlers with delays or disabilities in accordance with part C.
- (8) "Early intervention records" means all records regarding a child that are collected, maintained, or used under part C.
- (9) "Early intervention service coordinator" means a person who holds an early intervention service coordinator credential or an early intervention service coordination supervisor credential issued in accordance with rule 5123-10-04 of the Administrative Code and assists and enables an infant or toddler with a developmental delay or disability and the child's family to receive the services and rights, including procedural safeguards, required under part C.
- (10) "Early intervention service provider" means an entity that, or an individual who, provides early intervention services under part C, and may include, where appropriate, the department and a public agency responsible for providing early intervention services under part C.
- (11) "Early intervention services" means developmental services described in appendix A to this rule, selected in collaboration with a parent of a child birth through age two who is eligible for services under part C, and designed to meet the developmental needs of the child and the needs of the child's family to assist appropriately in the child's development as identified in the individualized family service plan.
- (12) "Evaluation" means the procedures used by qualified personnel on a multidisciplinary team to determine a child's eligibility for early intervention services. At least one of the qualified personnel shall be trained to administer the department-approved evaluation tool utilized.
- (13) "Frequency" means the number of days or sessions that an early intervention service will be provided.
- (14) "Individualized family service plan" means the written plan for providing early intervention services to an eligible child and the child's family.
 - (a) "Initial individualized family service plan" means the first ever individualized family service plan developed by a team for a child

that must be completed within forty-five calendar days of the program referral.

- (b) "Annual individualized family service plan" means the individualized family service plan written once per year, no later than the anniversary of the initial individualized family service plan.
 - (c) "Periodic review" means a review of an individualized family service plan that takes place any time between an initial individualized family service plan and an annual individualized family service plan or between two annual individualized family service plans, but no later than six months after the most recent individualized family service plan. A periodic review occurs any time there is a need to change service delivery or outcomes, the family requests a review, or a child transfers from one county to another before the annual individualized family service plan is due.
- (15) "Informed clinical opinion" means the process used by qualified personnel in the evaluation and assessment process to make a recommendation as to initial and continuing eligibility for services under part C and as a basis for planning services to meet child and family needs. Informed clinical opinion makes use of qualitative and quantitative information to assist in forming a determination regarding difficult-to-measure aspects of current developmental status and the potential need for early intervention.
 - (16) "Initial assessment" means the assessment of a child and the family-directed assessment conducted prior to the child's initial individualized family service plan meeting.
 - (17) "Initial evaluation" means the evaluation of a child to determine his or her initial eligibility for early intervention services.
 - (18) "Intensity" means whether the early intervention service is provided on an individual or group basis.
 - (19) "Length" means the length of time the early intervention service is provided during each session of that service (such as an hour or other specified time period).
 - (20) "Method" means how an early intervention service is provided.
 - (21) "Multidisciplinary" means the involvement of qualified personnel representing two or more separate disciplines or professions and with respect to:

- (a) Evaluation and assessment of a child, which may include one individual who is qualified in more than one discipline or profession; and
 - (b) The individualized family service plan team, which shall include the child's parent and two or more individuals from separate disciplines or professions, one of whom shall be an early intervention service coordinator.
- (22) "Native language" means the language or mode of communication normally used by a child or a parent of the child.
- (23) "Natural environment" means settings that are natural or typical for a same-aged child without a developmental delay or disability, including the home or community settings.
- (24) "Parent" means a biological or adoptive parent of a child, a guardian, a foster parent or person acting in place of a biological parent or adoptive parent with whom the child lives, or an appointed surrogate parent, consistent with 34 C.F.R. 303.27, as in effect on the effective date of this rule.
- (25) "Part B" means part B of the Individuals with Disabilities Education Act, 20 U.S.C. 1411 through 1419, as in effect on the effective date of this rule, and 34 C.F.R. parts 300 and 301, as in effect on the effective date of this rule.
- (26) "Part C" means part C of the Individuals with Disabilities Education Act, 20 U.S.C. 1431 through 1445, as in effect on the effective date of this rule, and 34 C.F.R. part 303, as in effect on the effective date of this rule.
- (27) "Participating agency" means any individual, agency, entity, or institution that collects, maintains, or uses personally identifiable information to implement the requirements in part C with respect to a particular child. A participating agency includes the lead agency, early intervention service 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 Ohio department of medicaid) or private entities (such as private insurance companies) that act solely as funding sources for part C services.
- (28) "Prior written notice" means the written notification provided to a parent at least ten calendar days before proposing or refusing to initiate or change the identification, evaluation, or placement of a child, or the provision of early intervention services to a child and that child's family, consistent with paragraph

(D) of rule 5123-10-01 of the Administrative Code. A parent may waive the right to the ten-day prior notice.

(29) "Qualified personnel" means personnel described in appendix B to this rule.

(C) Eligibility for early intervention services

(1) The following children are eligible for early intervention services under part C:

(a) Children who have a documented diagnosed physical or mental condition with a high probability of resulting in a developmental delay, as listed in appendix C to this rule.

(i) The early intervention service coordinator shall ensure that documentation of the qualifying diagnosed condition is requested and obtained.

(ii) Children for whom documentation of the qualifying diagnosed condition is not obtained by the early intervention service coordinator shall be offered an evaluation in accordance with the timelines set forth in paragraph (D) of this rule and the procedures set forth in paragraphs (F) and (G) of this rule to determine eligibility to receive early intervention services.

(b) Children who have a documented diagnosed physical or mental condition which is not listed in appendix C to this rule.

(i) The early intervention service coordinator shall ensure that documentation of the diagnosed condition which is determined to have a high probability of resulting in a developmental delay or disability is requested, obtained, and documented on form EI-12 ("Documentation of Diagnosed Condition," July 2019). The form shall be filled out completely and signed by a professional licensed to diagnose and treat mental or physical conditions for the child to be eligible to receive early intervention services.

(ii) Children for whom documentation of the diagnosed condition on completed form EI-12 ("Documentation of Diagnosed Condition," July 2019) is not obtained by the early intervention service coordinator shall be offered an evaluation in accordance with the timelines set forth in paragraph (D) of this rule and the procedures set forth in paragraphs (F) and (G) of this rule to determine eligibility for early intervention services.

- (iii) Children who are determined to be eligible in accordance with paragraph (C)(1)(b) of this rule shall have their eligibility determined annually.
 - (c) Children with a developmental delay of at least one and one-half standard deviations below the mean, or the equivalent determined through informed clinical opinion, in adaptive, cognitive, communication, physical, or social and emotional development, as determined and documented through an evaluation in accordance with the timelines set forth in paragraph (D) of this rule and the procedures set forth in paragraphs (F) and (G) of this rule.
 - (i) Children for whom the developmental evaluation tool does not indicate a developmental delay of at least one and one-half standard deviations below the mean in adaptive, cognitive, communication, physical, or social and emotional development, may be made eligible using informed clinical opinion with a written explanation of the sources of information used and how those sources of information support eligibility.
 - (ii) Children who are determined to be eligible in accordance with paragraph (C)(1)(c)(i) of this rule shall have their eligibility determined annually.
 - (d) Children who move to Ohio with an eligibility determination and/or individualized family service plan from another state or United States territory shall have their eligibility established in Ohio prior to proceeding to individualized family service plan development and implementation. Existing information and documents may be used to determine eligibility in accordance with paragraphs (C)(1)(a) to (C)(1)(c) of this rule. Except for documentation of a diagnosed physical or mental condition described in paragraph (C)(1)(a) of this rule, all information and documentation shall be dated within one hundred eighty days prior to early intervention program referral.
- (2) For every child under the age of three who is referred to the early intervention program or screened in accordance with paragraphs (D) and (E) of this rule, there is no requirement to:
 - (a) Provide an evaluation of the child unless the child is suspected of having a developmental delay or disability or the parent requests an evaluation in accordance with paragraph (E)(2)(b) of this rule; or

- (b) Make early intervention services available to the child unless a determination is made that the child is eligible in accordance with paragraph (C) of this rule.
 - (3) For every child who is referred to the early intervention program fewer than forty-five calendar days before that child's third birthday, there is no requirement to conduct an initial evaluation, initial assessment, or an initial individualized family service plan meeting.
- (D) Timelines for developmental screening, initial evaluation, initial assessment, and initial individualized family service plan meeting
- (1) Except as provided in paragraph (D)(2) of this rule, the early intervention service coordinator shall ensure any developmental screening conducted in accordance with paragraph (E) of this rule, determination of eligibility in accordance with paragraph (C) of this rule, initial evaluation and initial assessment of the child and family in accordance with paragraphs (F), (G), and (I) of this rule, and initial individualized family service plan meeting in accordance with paragraph (J) of this rule, are completed within forty-five calendar days from the date the child is referred to the early intervention program.
 - (2) Subject to paragraph (D)(2)(b) of this rule, the forty-five-day timeline described in paragraph (D)(1) of this rule does not apply when:
 - (a) The child or parent is unavailable to complete the developmental screening, initial evaluation, initial assessment of the child and family, or initial individualized family service plan meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
 - (b) The early intervention service coordinator is unable to locate the parent to provide consent for the developmental screening, initial evaluation, or initial assessment of the child, despite documented, repeated attempts, using more than one medium when available.
 - (3) In the event that the circumstances described in paragraph (D)(2)(a) or (D)(2)(b) exist, the early intervention service coordinator shall ensure:
 - (a) Documentation in the child's early intervention records of the exceptional family circumstances or repeated attempts by the early intervention service coordinator to obtain the parent's consent; and
 - (b) Completion of the developmental screening, initial evaluation, initial assessment of the child and family, and initial individualized family

service plan meeting as soon as possible after the documented exceptional family circumstances no longer exist or the parent's consent is obtained for the developmental screening, initial evaluation, and initial assessment of the child.

(E) Developmental screening procedures

- (1) If an early intervention participating agency proposes to screen a child under the age of three who has been referred to the early intervention program to determine whether he or she is suspected of having a developmental delay or disability, the early intervention participating agency shall ensure:
 - (a) Prior written notice of the intent to screen the child is provided to the parent using form EI-01 ("Prior Written Notice and Consent for Developmental Screening," July 2019);
 - (b) The parent's consent is obtained using form EI-01 ("Prior Written Notice and Consent for Developmental Screening," July 2019) before conducting the developmental screening procedures; and
 - (c) Department-approved screening instruments are administered.
- (2) If the developmental screening or other available information indicates that the child is:
 - (a) Suspected of having a developmental delay or disability, an evaluation and assessment of the child shall be conducted in accordance with paragraphs (D), (F), (G), and (I) of this rule; or
 - (b) Not suspected of having a developmental delay or disability, the early intervention service coordinator shall ensure that prior written notice of that determination is provided to the parent using form EI-10 ("Prior Written Notice of Exiting," July 2019). If the parent of the child requests an evaluation at any time during the developmental screening process, evaluation of the child shall be conducted in accordance with paragraphs (D), (F), and (G) of this rule, even if the early intervention service provider has determined in accordance with this paragraph, that the child is not suspected of having a developmental delay or disability.

(F) Evaluation of a child and assessment of a child and family

- (1) Each child under the age of three who is referred for evaluation for early intervention services and suspected of having a developmental delay or disability shall receive:

- (a) A timely, comprehensive, multidisciplinary evaluation of the child in accordance with paragraphs (D) and (G) of this rule unless eligibility is established in accordance with paragraph (C)(1)(a), (C)(1)(b), or (C)(1)(d) of this rule; and
- (b) If the child is determined eligible:
 - (i) A multidisciplinary child assessment in accordance with paragraphs (D) and (I) of this rule; and
 - (ii) A family-directed assessment in accordance with paragraphs (D) and (I) of this rule.
- (2) The evaluation described in paragraph (F)(1)(a) of this rule and the assessments described in paragraph (F)(1)(b) of this rule may occur simultaneously provided that the requirements in paragraphs (D) and (G) of this rule are met.
- (3) An early intervention service coordinator shall ensure prior written notice is provided and the parent's consent is obtained using form EI-02 ("Prior Written Notice and Consent for Developmental Evaluation and Assessment," July 2019) prior to conducting an evaluation or assessment of the child or using form EI-03 ("Prior Written Notice and Consent for the Family-Directed Assessment," July 2019) prior to conducting a family-directed assessment in accordance with paragraphs (G) and (I) of this rule.
- (4) Qualified personnel shall use informed clinical opinion when conducting an evaluation and assessment of a child.
- (5) All evaluations and assessments of a child and family shall be conducted in settings and at times that are convenient for the parent.
- (6) All evaluations and assessments of a child and family shall be conducted by qualified personnel, in a nondiscriminatory manner, and selected and administered so as not to be racially or culturally discriminatory.
- (7) Unless clearly not feasible to do so, all evaluations and assessments of a child shall be conducted in the native language of the child.
- (8) Unless clearly not feasible to do so, family-directed assessments shall be conducted in the native language of the family members being assessed.

(G) Procedures for evaluation of a child

Evaluation of a child shall include:

- (1) Administering a department-approved evaluation tool where at least one of the qualified personnel administering the tool has received department-approved training in administration of the tool;
- (2) Reviewing the child's history through parent interview and medical, educational, or other records;
- (3) Identifying the child's level of functioning in adaptive, cognitive, communication, physical (including fine and gross motor, vision, and hearing), and social and emotional developmental domains; and
- (4) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, as necessary, to understand the full scope of the child's unique strengths and needs.

(H) Determination that a child is not eligible

If, based on the evaluation conducted in accordance with paragraph (G) of this rule, an early intervention service provider determines that a child is not eligible to receive early intervention services, the early intervention service coordinator shall ensure that prior written notice is provided to the child's parent using form EI-09 ("Prior Written Notice of Determination of Ineligibility," July 2019).

(I) Procedures for assessment of the child and family

- (1) A multidisciplinary assessment of each eligible child shall be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs.
- (2) An assessment of each child shall be conducted initially and at least annually prior to, but not more than ninety calendar days before, the annual individualized family service plan due date. An assessment may be conducted more frequently when appropriate.
- (3) When an evaluation is required in accordance with paragraph (C) of this rule, the assessment of a child shall include:
 - (a) A review of the results of the evaluation;
 - (b) Personal observations of the child; and
 - (c) Identification of the child's level of functioning in adaptive, cognitive, communication, physical (including fine and gross motor, vision, hearing, and nutrition), and social and emotional developmental domains.

- (4) When an evaluation is not required in accordance with paragraph (C) of this rule, the assessment of a child shall include:
- (a) A review of the child's history through parent interview and medical, educational, or other records;
 - (b) Gathering information from other sources such as family members, other care-givers, medical providers, social workers, and educators, as necessary, to understand the full scope of the child's unique strengths and needs;
 - (c) Personal observations of the child; and
 - (d) Identification of the child's level of functioning in adaptive, cognitive, communication, physical (including fine and gross motor, vision, hearing, and nutrition), and social and emotional developmental domains.
- (5) The early intervention service coordinator shall ensure the family is offered a family-directed assessment. A family-directed assessment shall be conducted by qualified personnel or an early intervention service coordinator in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the child. The family-directed assessment shall:
- (a) Be voluntary on the part of each family member participating in the assessment;
 - (b) Be based on information obtained through a department-approved family-directed assessment tool and also through an interview with those family members who elect to participate in the assessment; and
 - (c) Be conducted initially and at least annually prior to, but not more than ninety calendar days before, the annual individualized family service plan due date.

(J) Individualized family service plan meetings

- (1) For a child referred to the early intervention program determined to be eligible to receive early intervention services in accordance with paragraph (C) of this rule and assessed in accordance with paragraphs (F) and (I) of this rule, a meeting to develop the initial individualized family service plan shall be conducted within the forty-five-day time period described in paragraph (D)(1) of this rule.

- (2) A periodic review of the individualized family service plan for a child and the child's family shall be conducted every six months, or more frequently if conditions warrant, or if the parent requests such a review.
 - (a) The purpose of the periodic review is to determine:
 - (i) The degree to which progress toward achieving the outcomes identified in the individualized family service plan is being made; and
 - (ii) Whether modification or revision of the outcomes or early intervention services identified in the individualized family service plan is necessary.
 - (b) The periodic review may be carried out by a meeting or by other means that are acceptable to the parent and other participants.
 - (c) Each periodic review shall provide for the participation of persons in paragraphs (J)(6)(a) to (J)(6)(d) of this rule. If conditions warrant, provisions shall be made for the participation of other representatives identified in paragraph (J)(6) of this rule. All persons participating in the periodic review may participate via technology from a remote location while maintaining the confidentiality of personally identifiable information and consistent with any participant's relevant licensure requirements.
- (3) A meeting shall be conducted on at least an annual basis to evaluate and revise as appropriate, the individualized family service plan for a child and the child's family. The results of any current evaluations and other information available from the assessments of the child and family conducted in accordance with paragraphs (F), (G), and (I) of this rule shall be used in determining the early intervention services that are needed and will be provided.
- (4) Individualized family service plan meetings shall be conducted:
 - (a) In settings and at times that are convenient for the parent; and
 - (b) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.
- (5) Meeting arrangements shall be made with the parent and other participants. Written notice of the meeting arrangements using form EI-13 ("Individualized Family Service Plan Meeting Notice," July 2019) shall be provided to the parent and other participants early enough to ensure they will be able to attend.

- (6) Each initial and annual individualized family service plan meeting shall include:
- (a) The parent of the child;
 - (b) Other family members, as requested by the parent, if feasible to do so;
 - (c) An advocate or person outside of the family, if the parent requests that the person participate;
 - (d) The designated early intervention service coordinator responsible for implementing the individualized family service plan;
 - (e) A person directly involved in conducting the evaluations and assessments described in paragraphs (F), (G), and (I) of this rule; and
 - (f) As appropriate, persons who will be providing early intervention services to the child or family.
- (7) The parent of the child and the early intervention service coordinator shall be physically present at the initial and annual individualized family service plan meeting.
- (8) If a person listed in paragraph (J)(6)(b), (J)(6)(c), or (J)(6)(f) of this rule is unable to be physically present at the initial or annual individualized family service plan meeting, the person may participate via technology from a remote location while maintaining the confidentiality of personally identifiable information and consistent with any participant's relevant licensure requirements.
- (9) If a person listed in paragraph (J)(6)(e) of this rule is unable to be physically present at the initial or annual individualized family service plan meeting, arrangements shall be made for the person's involvement through other means, including:
- (a) Participating via technology from a remote location while maintaining the confidentiality of personally identifiable information and consistent with any participant's relevant licensure requirements;
 - (b) Having a knowledgeable authorized representative attend the meeting; or
 - (c) Making pertinent records available at the meeting.

(K) Content of an individualized family service plan

- (1) The early intervention service coordinator shall ensure that form EI-04 ("Individualized Family Service Plan," July 2019) is completed.
- (2) The individualized family service plan shall include a statement of the child's present levels of physical development (including fine and gross motor, vision, hearing, nutrition, and health status), cognitive development, communication development, social and emotional development, and adaptive development, including child outcome statements, based on the information from the child's evaluation and assessments conducted in accordance with paragraphs (F), (G), and (I) of this rule.
- (3) If the family agrees, the individualized family service plan shall include a statement of the family's resources, priorities, and concerns related to enhancing the development of the child as identified through the assessment of the family in accordance with paragraph (I) of this rule.
- (4) The individualized family service plan shall include a statement of the measurable outcomes expected to be achieved for the child (including pre-literacy and language skills as developmentally appropriate for the child) and family, and the criteria, procedures, and timelines used to determine:
 - (a) The degree to which progress toward achieving the outcomes identified in the individualized family service plan is being made; and
 - (b) Whether modification or revision of outcomes or early intervention services identified in the individualized family service plan is necessary.
- (5) The individualized family service plan shall include a statement of the specific early intervention services that are necessary to meet the unique needs of the child and the family to achieve the outcomes identified in accordance with paragraph (K)(4) of this rule, including:
 - (a) The length, duration, frequency, intensity, and method of delivering the early intervention services.
 - (b) The location where the early intervention services will be provided. A statement that each early intervention service is provided in the natural environment for that child or service, or a statement that an early intervention service will not be provided in the natural environment with an explanation as to why the early intervention service cannot be achieved in the natural environment, the steps the family, the early intervention service coordinator, and the early intervention service provider will take to move the early intervention service into the natural environment, and

the projected date the early intervention service will be moved into the natural environment. The determination of the appropriate setting for providing early intervention services to an eligible child shall be:

- (i) Made by the individualized family service plan team; and
 - (ii) Based on the child and family outcomes that are identified by the individualized family service plan team in accordance with paragraph (K)(4) of this rule.
- (c) The payment arrangements. When the provider will be a department-contracted early intervention service provider, the early intervention service coordinator shall submit, within thirty calendar days of the signed individualized family service plan, form EI-04 ("Individualized Family Service Plan," July 2019), form EI-05 ("Consent to Use Insurance for Early Intervention Services," July 2019), form EI-15 ("Determination of Parent Ability to Pay for Early Intervention Services," July 2019), and form EI-16 ("Payment for Early Intervention Services," July 2019).
- (6) To the extent appropriate, the individualized family service plan shall:
- (a) Identify the medical and other services that the child or family needs or is receiving through other sources, but that are neither required nor funded by the early intervention program and if those services are not currently being provided, include a description of the steps the early intervention service coordinator or family will take to assist the child and family in securing those services; and
 - (b) Describe the steps the early intervention service coordinator will take to assist the child and family in securing the early intervention services which are identified as needed to achieve outcomes, but are not yet coordinated.
- (7) The individualized family service plan shall include the projected date for the initiation of each early intervention service identified in accordance with paragraph (K)(5) of this rule, which date shall be as soon as possible after the parent consents to the service, but shall not exceed thirty calendar days, and the anticipated duration of each service.
- (8) The individualized family service plan shall include the name of the early intervention service coordinator who will be responsible for ensuring the implementation of the early intervention services identified in the

individualized family service plan, including transition services and coordination with other agencies and persons.

- (9) The contents of the individualized family service plan shall be explained and prior written notice of the proposed services using form EI-11 ("Prior Written Notice for Proposed Change to Services," July 2019) given to the parent and the parent's written consent shall be obtained using form EI-04 ("Individualized Family Service Plan," July 2019) prior to the provision of early intervention services described in the individualized family service plan.
- (10) After the parent signs the individualized family service plan, the early intervention service coordinator shall ensure that the parent, early intervention service providers, and with the parent's consent using form EI-06 ("Consent for Release of Records and Consent for Release and/or Exchange of Information," July 2019), other participants are provided with a copy of the individualized family service plan within ten calendar days.

(L) Transition to preschool and other programs

- (1) Disclosure of personally identifiable information to the local educational agency and the Ohio department of education
 - (a) The early intervention service coordinator shall explain the role of the local educational agency in determining eligibility for preschool services under part B and ensure the parent's consent is obtained using form EI-07 ("Consents for Transition," July 2019) before the disclosure of personally identifiable information to the local educational agency and the Ohio department of education as required in accordance with paragraph (F)(2) (b) of rule 5123-10-01 of the Administrative Code either:
 - (i) At the individualized family service plan meeting closest to the child's second birthday; or
 - (ii) Whenever a child is determined eligible at or after twenty-four months of age.
 - (b) For a child who may be eligible for preschool services under part B and for whom the parent has given consent to share personally identifiable information using form EI-07 ("Consents for Transition," July 2019):
 - (i) An early intervention service provider responsible for service coordination shall notify the local education agency where the child resides at least ninety calendar days prior to the child's third

birthday. The department shall make a corresponding notification to the Ohio department of education.

- (ii) An early intervention service provider responsible for service coordination shall on or before, but not more than ten calendar days in advance of, the first day of February, May, August, and November of each year, identify each child turning three years of age within one year from the first day of the respective month and notify the local education agency where the child resides. The department shall make a corresponding notification to the Ohio department of education.
- (c) If a child is determined eligible for early intervention services in accordance with paragraph (C) of this rule more than forty-five calendar days and fewer than ninety calendar days before the child's third birthday and the child may be eligible for preschool services under part B, as soon as possible after determining the child's eligibility, the early intervention service coordinator shall ensure the parent's consent is obtained using form EI-07 ("Consents for Transition," July 2019) before the disclosure of personally identifiable information to the local educational agency and the Ohio department of education as required in accordance with paragraph (F)(2)(b) of rule 5123-10-01 of the Administrative Code and notifying the local educational agency that the child will reach the age of eligibility for services under part B on the child's third birthday. The department shall make a corresponding notification to the Ohio department of education.
- (d) If a child is referred to the early intervention program forty-five or fewer calendar days before the child's third birthday and that child may be eligible for preschool services under part B, the early intervention services central intake site and/or early intervention service coordinator shall ensure referral of the child to the local educational agency after obtaining the parent's consent using form EI-08 ("Consent to Refer Child to the Local Educational Agency and the Ohio Department of Education," July 2019). The department shall make a corresponding notification to the Ohio department of education. Under these circumstances, the early intervention program is not required to conduct an evaluation, assessment, or initial individualized family service plan meeting.

(2) Individualized family service plan transition planning

- (a) Not fewer than ninety calendar days, but not more than nine months before a child's third birthday, the individualized family service plan shall include

at least one transition outcome to create a plan to support a smooth transition of the child from early intervention services under part C to preschool services under part B or to other appropriate services. The early intervention service coordinator shall ensure that transition outcomes include the steps that will be taken and the services that will be provided for:

- (i) Needed discussions with, and training of, the parent regarding future placements and other matters related to the child's transition;
 - (ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting;
 - (iii) The identification of the transition services, steps, or activities that the individualized family service plan team determines are necessary to support the transition of the child; and
 - (iv) Confirmation that, with parent consent, child find information about the child, including a copy of the most recent evaluation and assessments of the child and the family and the most recent individualized family service plan, has been transmitted to the local educational agency.
- (b) If a child may be eligible for preschool services under part B, after obtaining the parent's consent using form EI-07 ("Consents for Transition," July 2019), the early intervention service coordinator shall ensure that a transition planning conference is conducted during an individualized family service plan meeting in accordance with paragraphs (J)(4) to (J)(9) and (K) of this rule. The transition planning conference shall occur not fewer than ninety calendar days and not more than nine months prior to the child's third birthday and shall include the local educational agency to discuss any services the child may receive under part B.
- (c) If a child is determined not to be potentially eligible for preschool services under part B, or a parent has chosen not to share personally identifiable information with the local educational agency, after obtaining the parent's consent using form EI-07 ("Consents for Transition," July 2019), the early intervention service coordinator shall ensure that a transition planning conference is conducted during an individualized family service plan meeting in accordance with paragraphs (J)(4) to (J)(9) of this rule. The transition planning conference shall occur not fewer than ninety

calendar days and not more than nine months prior to the child's third birthday.

(M) Interim individualized family service plan

- (1) An interim individualized family service plan may be developed on form EI-04 ("Individualized Family Service Plan," July 2019) after written notice is provided to the parent using form EI-13 ("Individualized Family Service Plan Meeting Notice," July 2019) and exceptional family circumstances make it impossible to complete the child assessment before the needed services begin.
- (2) An interim individualized family service plan is available for a child who is eligible because of a diagnosed physical or mental condition listed in appendix C to this rule when:
 - (a) The contents of the interim individualized family service plan are explained and prior written notice of the proposed services using form EI-11 ("Prior Written Notice for Proposed Change to Services," July 2019) given to the parent and the parent's written consent is obtained using form EI-04 ("Individualized Family Service Plan," July 2019) prior to the provision of early intervention services described in the interim individualized family service plan.
 - (b) An interim individualized family service plan is developed that includes:
 - (i) The name of the service coordinator who will be responsible for implementing the interim individualized family service plan and coordinating with other agencies and persons; and
 - (ii) The early intervention outcomes and services that have been determined to be needed immediately by the child and the child's family.
 - (c) Assessments are completed within the forty-five-day timeline in accordance with paragraph (D)(1) of this rule.

(N) Service coordination

A child referred to the early intervention program and the child's family shall be provided with one early intervention service coordinator who is responsible for:

- (1) Serving as the single point of contact for the child's family for carrying out the activities described in paragraphs (N)(2) to (N)(15) of this rule;

- (2) Assisting the parent of the child in obtaining access to needed early intervention services and other services identified in the individualized family service plan, including making referrals to providers for needed services and scheduling appointments for the child and the child's family;
- (3) Coordinating the provision of early intervention services and other services (such as educational, social, and medical services that are not provided for diagnostic or evaluation purposes) that the child needs or is being provided;
- (4) Coordinating evaluations and assessments;
- (5) Facilitating and participating in the development, review, and evaluation of individualized family service plans;
- (6) Conducting referral and other activities to assist families in identifying available early intervention service providers;
- (7) Coordinating, facilitating, and monitoring the delivery of needed early intervention services and other services identified in the individualized family service plan to ensure that the services are provided in a timely manner;
- (8) Conducting follow-up activities to determine that appropriate early intervention services are being provided;
- (9) Informing families of their rights and procedural safeguards as set forth in rule 5123-10-01 of the Administrative Code;
- (10) Coordinating the funding sources for needed early intervention services in accordance with rule 5123-10-03 of the Administrative Code and other services identified in the individualized family service plan;
- (11) Facilitating the development of a transition plan to preschool, school, or, if appropriate, other services in accordance with paragraph (L) of this rule;
- (12) Coordinating the information gathering and completion of the child outcomes summary information to assess the child's development at the initial individualized family service plan meeting, annual individualized family service plan meeting, and at the time of the child's exit from the early intervention program;
- (13) Providing follow-up, after obtaining the parent's consent, to a professional referral source on form EI-14 ("Professional Referral Follow-Up," July 2019) within sixty calendar days after receiving the early intervention program referral;

- (14) Referring the child and the child's family to "Help Me Grow Home Visiting" and other programs in which the parent is interested and for which the child and family may be eligible after obtaining parent permission; and
- (15) Documenting the performance of the activities described in paragraphs (N)(1) to (N)(14) of this rule and any other early intervention program activities.

(O) Maintaining early intervention records

- (1) An early intervention service coordinator shall maintain one record for each child in the early intervention program, which includes, as applicable:
 - (a) Copies of required forms and all early intervention program correspondence;
 - (b) Early intervention service coordination case notes that document early intervention program activities in accordance with paragraph (N)(15) of this rule;
 - (c) Documentation of eligibility, including form EI-12 ("Documentation of Diagnosed Condition," July 2019); and
 - (d) All individualized family service plans on form EI-04 ("Individualized Family Service Plan," July 2019), signed by the individualized family service plan team, including the parent.
- (2) Early intervention service providers, other than early intervention service coordinators, shall maintain the following records for each child in the early intervention program:
 - (a) Documentation of eligibility;
 - (b) Current individualized family service plan;
 - (c) Copies of relevant forms and all early intervention program correspondence;
and
 - (d) Documentation of the early intervention services provided, including the date, length, duration, frequency, intensity, method of delivery, location, and all activities related to individualized family service plan outcomes.
- (3) Within ten business days of a request by an early intervention service coordinator, an early intervention service provider shall provide a copy of a child's early intervention record.

(P) Exiting and transferring from the early intervention program

- (1) The early intervention service coordinator shall exit a child from the early intervention program when:
 - (a) The child is deceased; or
 - (b) The child reached three years of age.
- (2) The early intervention service coordinator shall provide prior written notice using form EI-10 ("Prior Written Notice of Exiting," July 2019) and then exit a child from the early intervention program when any one of the following occurs:
 - (a) The child was screened in accordance with paragraphs (D) and (E) of this rule and not suspected of having a developmental delay or disability and the parent did not request an evaluation in accordance with paragraphs (D), (F), and (G) of this rule;
 - (b) The parent did not provide consent required in accordance with paragraph (F) of this rule;
 - (c) The child was determined not to be eligible to receive early intervention services in accordance with paragraph (C) of this rule;
 - (d) The required re-determination of eligibility was not completed in accordance with paragraphs (C)(1)(b)(iii) and (C)(1)(c)(ii) of this rule;
 - (e) The annual child assessment procedures were not completed in accordance with paragraphs (D), (F), and (I) of this rule;
 - (f) The parent determined that the family is not in need of individualized family service plan outcomes at this time;
 - (g) The child's individualized family service plan outcomes were met and the child's individualized family service plan team agreed the child does not need additional outcomes;
 - (h) The parent terminated participation in the early intervention program;
 - (i) The parent could not be located, including in order to provide required consent in accordance with paragraph (P)(3) of this rule;
 - (j) The child moved out of the state of Ohio; or

- (k) The child transitioned to part B services with an individualized education program prior to three years of age.
- (3) When the early intervention service coordinator cannot locate a parent to obtain required consent, the early intervention service coordinator shall use form EI-10 ("Prior Written Notice of Exiting," July 2019) to provide prior written notice to the parent that the child will be exited if the parent does not contact the early intervention service coordinator within ten calendar days from the date of the notice.
- (4) If a child in the early intervention program transfers to another Ohio county, the current early intervention service coordinator shall retain the child's original early intervention record kept in accordance with paragraph (O)(1) of this rule and provide an electronic or paper copy of the child's early intervention record to the new county within ten calendar days from the date of record request from the new county of residence. Information kept in the statewide data system shall be updated by the current early intervention service coordinator before transfer of the child's record. The receiving early intervention service coordinator shall, within forty-five calendar days of the transfer, ensure completion of:
- (a) A review of existing eligibility and assessment information;
 - (b) Updated assessments as necessary; and
 - (c) A review of the individualized family service plan.

(Q) Authority of director to waive or modify provisions of this rule

During the COVID-19 state of emergency declared by the governor, the director of the department may:

- (1) Waive requirements set forth in this rule to complete specified early intervention forms if the required information, notice, or consent described in a form is otherwise provided or secured and documented in writing;
- (2) Waive the requirement in paragraph (B)(14)(c) of this rule for a periodic review to change the methods of delivering early intervention services or the locations of early intervention services;
- (3) Waive the requirement in paragraph (C)(1)(b)(iii) of this rule that children who are determined to be eligible in accordance with paragraph (C)(1)(b) of this rule have their eligibility determined annually when doing so is not feasible;

- (4) Waive the requirement in paragraph (C)(1)(c)(ii) of this rule that children who are determined to be eligible in accordance with paragraph (C)(1)(c)(i) of this rule have their eligibility determined annually when doing so is not feasible;
- (5) Waive the requirement in paragraph (J)(7) of this rule that the parent of the child and the early intervention service coordinator shall be physically present at the initial and annual individualized family service plan meeting and instead allow parents and early intervention service coordinators to participate by telephone or video conference; and/or
- (6) Modify the limitation in paragraph (M)(2) of this rule that restricts availability of an interim individualized family service plan to a child who has a diagnosed physical or mental condition listed in appendix C to this rule so that an interim individualized family service plan is also available to a child for whom documentation of the diagnosed condition is listed on form EI-12 ("Documentation of Diagnosed Condition," July 2019).

Effective: 11/19/2020

Five Year Review (FYR) Dates: 7/1/2024

CERTIFIED ELECTRONICALLY

Certification

11/09/2020

Date

Promulgated Under: 119.03
Statutory Authority: 5123.04, 5123.0421
Rule Amplifies: 5123.04, 5123.0421
Prior Effective Dates: 07/01/2019, 06/11/2020 (Emer.)