

TITLE 16
JUVENILE PROCEEDINGS

CHAPTER 1
EARLY INTERVENTION SERVICES

16-101. LEGISLATIVE FINDINGS. The legislature finds that there is an urgent and substantial need:

(1) To enhance the development of all infants and toddlers with disabilities in the state of Idaho in order to minimize developmental delay, and to maximize individual potential for adult independence;

(2) To enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities;

(3) To reduce the educational costs by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(4) To reduce social services costs and to minimize the likelihood of institutionalization of individuals with disabilities;

(5) To reduce the health costs of preventable secondary impairments and disabilities by screening and monitoring children at risk and improving the long term health of infants and toddlers with disabilities; and

(6) To comply with federal law as it pertains to services for infants and toddlers with disabilities and their families.

[16-101, added 1991, ch. 253, sec. 1, p. 621.]

16-102. POLICY. The legislature intends that the policy of the state of Idaho shall be:

(1) To reaffirm the importance of the family in all areas of the child's development and to reinforce the role of the family in the decision making processes regarding their child;

(2) To provide assistance and support to the family of an infant or toddler with a disability that addresses the individual needs of the family;

(3) To develop and implement with available resources a statewide screening and tracking system for infants and toddlers at risk;

(4) To develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for all infants and toddlers with disabilities and their families;

(5) To enhance the capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities;

(6) To facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and

(7) To guarantee financial assistance for the purposes of coordinating early intervention services in communities and to enhance their capacity to provide individualized services to infants and toddlers with disabilities and their families.

[16-102, added 1991, ch. 253, sec. 1, p. 621.]

16-103. DEFINITIONS. In this chapter:

(1) "Allocation" means state and federal funds designated for coordination of program functions in the seven (7) regions.

(2) "Applications" mean the documents submitted by the regional infant toddler committees to the infant toddler council, detailing the budget request for the regional committee activities and comprehensive component plans for the planning and coordination of programs authorized in this chapter.

(3) "Awards and contracts" mean the state and federal funds designated by the lead agency for projects relating to planning, resource development, or provision of direct service.

(4) "Council" means the state interagency coordinating council established in section [16-105](#), Idaho Code.

(5) "Early intervention services" mean those services which are provided under public supervision by qualified personnel, in conformity with the individual family service plan (IFSP), and are designed to meet the developmental needs of eligible children as defined in this chapter. These services are selected and provided in collaboration with the families; and, to the extent appropriate, are provided in types of settings in which infants and toddlers without disabilities would participate. These services, necessary to enable the child to benefit from the other early intervention services, include:

- (a) audiology;
- (b) case management services, including transitions;
- (c) family training, counseling or home-based services;
- (d) health services including dental;
- (e) medical services for diagnostic or evaluation purposes only;
- (f) nursing services;
- (g) nutrition services;
- (h) occupational therapy;
- (i) physical therapy;
- (j) psychological services;
- (k) respite care;
- (l) social work services;
- (m) special instruction/developmental therapy;
- (n) speech and language pathology services; and
- (o) transportation including the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and related costs (parking expense) that are necessary to enable an eligible child and the child's family to receive early intervention services.

(6) "Early intervention system" means the management structure established in this chapter, comprised of the interdependent continuum of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for young children who have a disability or are at risk.

(7) "Health and safety standards" mean those standards which address the facilities where early intervention services are offered, excluding the child's home. Such standards may include but are not limited to the dimensions or size of a facility, communicable disease, social environment, nutrition, immunization, and fire codes.

(8) "Include" means that all items named are not all of the possible items that are covered whether like or unlike the ones named.

(9) "Individualized family service plan (IFSP)" means a written plan designed to address the strengths and needs of an infant or toddler with disabilities and the family that meets the requirements of section [16-109](#), Idaho Code.

(10) "Infants and toddlers at risk" mean children who are in need of screening and tracking services to monitor their development because they have:

- (a) Medical or biological risk factors, which refer to prenatal, perinatal, and neonatal events which increase the probability of delayed development or result in disability (e.g., low birth weight, prematurity, abnormal neurological findings); or
- (b) Environmental risk factors, which refer to high-risk environmental influences that may affect development or result in disability (e.g., adolescent parent, poverty, psychiatric stress or known history of child abuse or neglect).

(11) "Infants and toddlers with disabilities" mean children age birth to thirty-six (36) months who need early intervention services because:

(a) They are experiencing developmental delays, as measured by diagnostic instruments and procedures (referenced in administrative rules) in one (1) or more of the following areas:

- (i) physical development;
- (ii) cognitive development;
- (iii) communication, language, speech and hearing development;
- (iv) psychosocial development;
- (v) self-help skills;
- (vi) sensory skills; or

(b) They are at risk of experiencing developmental delay due to established risk factors, which refer to diagnosed disorders where the condition is known to ultimately affect development or result in disability (e.g., the congenital anomalies associated with [with] Down syndrome or hydrocephaly).

(12) "Lead agency" means the department of health and welfare.

(13) "Multidisciplinary team" means a group comprised of the parent(s) or legal guardian and the professionals described in this chapter, as appropriate, who are assembled for the purposes of assessing the developmental needs of an infant or toddler, developing the IFSP, and providing the infant or toddler and the family with the early intervention services as detailed in the IFSP design to meet the individual family needs.

(14) "Program standards" mean those standards which address the coordination and provision of early intervention services. Such standards may include, but are not limited to, service year, length of program, personnel qualifications, staff/child ratio, caseload, maximum class size, and length of day.

(15) "Qualified" means that a person has met the highest standards of state approved or recognized certification, licensing, registration or other comparable requirements that apply to the area in which the person is providing early intervention services.

(16) "Region" means one of the seven (7) administrative regions of the lead agency.

(17) "Regional committee" means an interagency coordinating committee established within each of the seven (7) administrative regions of the lead agency to facilitate interagency coordination at the regional level and provide applications for regional committee activities, planning and direction for regional program activities.

(18) "Screening and tracking services" mean the identification of infants and toddlers delayed or at risk of delay using standardized proce-

dures, and the entry of demographic information into an automated system for periodically monitoring the child's services or need for services.

(19) "Service providers" mean those individuals or programs that deliver services to eligible infants and toddlers and their families in compliance with the applicable standards of state and local licensing and operational rules and regulations.

[16-103, added 1991, ch. 253, sec. 1, p. 622.]

16-104. EARLY INTERVENTION SYSTEM. The early intervention system shall consist of the lead agency, council, the regional committees, program personnel, a statewide parent education and resource system, eligible children, families, advocates, and public and private providers of early intervention services. The lead agency shall identify statewide and regional early intervention staff to be responsible for planning, developing, coordinating, monitoring and evaluating the requirements of this chapter.

[16-104, added 1991, ch. 253, sec. 1, p. 624.]

16-105. INTERAGENCY COORDINATING COUNCIL. (1) The governor shall appoint the members and the chair of the interagency coordinating council. For budgetary purposes, the council shall be assigned to the lead agency. The term of appointment for a member of the council shall be three (3) years, and members may be reappointed. In making appointments to the council, the governor shall ensure that the membership geographically represents the population of the state.

(2) The council membership shall consist of:

- (a) At least three (3) parents of young children with disabilities;
- (b) At least three (3) public or private providers of early intervention services;
- (c) At least one (1) member of the state legislature;
- (d) At least one (1) person involved in personnel preparation;
- (e) The superintendent of public instruction, or designee;
- (f) A representative of the executive council of the lead agency;
- (g) A physician skilled in early intervention;
- (h) A representative of the council on developmental disabilities.

[16-105, added 1991, ch. 253, sec. 1, p. 624.]

16-106. DUTIES OF COORDINATING COUNCIL. (1) The council shall have the following authority, duties and responsibilities, and such other functions as may be assigned by executive order:

(a) To assist the lead agency and all other appropriate agencies in ensuring the joint development and maintenance of a statewide system of coordinated, comprehensive, multidisciplinary, interagency programs providing early intervention services to all infants and toddlers with disabilities and their families. Such system shall include the following minimum components:

- (i) a definition of child and family eligibility under this program;
- (ii) a central directory, accessible to the general public;
- (iii) a public awareness program;

- (iv) a child find program consistent with the individuals with disabilities education act which identifies infants and toddlers with disabilities and other risk factors;
- (v) a comprehensive, multidisciplinary evaluation for each referred child;
- (vi) a program of personnel development;
- (vii) standards and certification necessary to assure qualified personnel;
- (viii) family education and participation throughout the early intervention system;
- (ix) a statewide data collection system for monitoring and evaluating the early intervention system. The system shall meet federal requirements;
- (x) an individualized family services plan for each eligible child and family who chooses to participate in the program;
- (xi) procedural safeguards that meet the requirements in section [16-110](#), Idaho Code.

(b) To assist the lead agency and all other appropriate agencies to ensure:

- (i) adoption of uniform or compatible administrative rules dealing with early intervention services;
- (ii) reasonable transition between and among the participating agencies;
- (iii) available funds under the provisions of this chapter are shared by the participating agencies in a manner that enables the optimum provision of necessary services for the child and the family;
- (iv) uniformity of program and health and safety standards; and
- (v) program policies dealing with infants and toddlers with disabilities and their families reflect the policy priorities of the council.

(c) To participate with the lead agency in the implementation of time lines for a statewide, comprehensive, coordinated, interagency system of early intervention services;

(d) To prepare and submit periodic reports no less than annually to the governor, legislature and the lead agency on the status of early intervention programs for infants and toddlers with disabilities and their families with recommendations for timely corrective action as needed;

(e) To develop a public awareness program focusing on early identification of infants and toddlers with disabilities;

(f) To participate with the lead agency and other appropriate agencies in the development, maintenance, evaluation, and revision of program, health and safety standards;

(g) To conduct public hearings and community needs assessments for the purpose of developing the state plan and applications for funding.

(2) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest.

[16-106, added 1991, ch. 253, sec. 1, p. 624.]

16-107. RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND WELFARE. The department of health and welfare, as the lead agency for administration of the provisions of this chapter, shall have primary responsibility for:

- (a) The administration of all funds appropriated to implement the provisions of this chapter;
- (b) The identification and coordination of all available financial resources within the state from federal, state, local and private sources;
- (c) The entry into formal intra-agency and interagency agreements with other agencies involved in early intervention services. The agreement(s) must include programmatic and financial responsibility, procedures for resolving disputes and additional components necessary to ensure effective cooperation and coordination among all agencies involved in the state's early intervention system. Agreements are to include statements addressing nonsubstitution or commingling of funds, interim payments and reimbursements, nonreduction of benefits and confidentiality. Agreements are to be signed by the administrators of:
 - (i) title V, social security act (relating to maternal and child health);
 - (ii) title XIX, social security act (relating to medicaid and EPSDT);
 - (iii) the head start act;
 - (iv) parts B and H of the individuals with disabilities education act;
 - (v) subpart 2, part B, chapter I of title I of elementary and secondary education act, 1964, as amended;
 - (vi) the developmentally disabled assistance and bill of rights act (PL100-146);
 - (vii) other federal programs.
- (d) The entry into contracts with service provider agencies within a local community which have been identified by the regional committee;
- (e) The development of procedures to monitor services that are provided to infants and toddlers with disabilities and their families;
- (f) The development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers;
- (g) The writing of all policy and procedures and administrative rules in conjunction with the council which are necessary for implementation of the provisions of this chapter;
- (h) Providing staff and services as may be necessary to carry out the functions of the interagency coordinating council.

[16-107, added 1991, ch. 253, sec. 1, p. 626.]

16-108. REGIONAL COMMITTEES. (1) The regional director of each of the seven (7) administrative regions of the lead agency shall appoint a local interagency coordinating committee to assist the regional lead agency and all other appropriate agencies in the planning and coordinating of services for infants and toddlers with disabilities and their families who reside within the region served by the regional committee. With recommendations from the regional committee, the regional director shall appoint staff to support regional committee activities and early intervention services. Staff persons will report to the regional director.

(2) Membership on the committee shall consist of parents, agency personnel with the authority to effectively represent their agencies and other public officials and private providers.

(3) The regional interagency coordinating committee shall have the following responsibility:

- (a) To advise and assist the council on regional issues or concerns; and
- (b) To assist the lead agency and other appropriate agencies in the implementation of the early intervention system locally as stipulated in rules and regulations.

[16-108, added 1991, ch. 253, sec. 1, p. 627.]

16-109. INDIVIDUALIZED FAMILY SERVICE PLAN. (1) Infants and toddlers receiving early intervention services and their families shall receive the following:

- (a) A comprehensive multidisciplinary evaluation of the strengths and needs of the infant or toddler and the family, and the identification of services to meet such needs;
- (b) An explanation of the multidisciplinary evaluation and all service options in the family's native language or through an interpreter, if necessary; and
- (c) A written individualized family service plan developed by a multidisciplinary team with the parents as fully participating members of the team.

(2) The individualized family service plan shall be developed within a reasonable time following the completed evaluation required in subsection (1) of this section. With the parent's consent, development of an interim individualized family service plan and compliance with evaluation timelines, early intervention services may commence prior to the completion of such assessment.

(3) The individualized family service plan shall be in writing and a copy of the plan shall be made available to the family, and in the family's native language when appropriate and necessary to ensure understanding, and shall contain the following:

- (a) A statement of the infant's or toddler's present levels of physical development, cognitive development, communication, language and speech development, psychosocial development, sensory impairment and self-help skills based on objective criteria;
- (b) A statement of the family's strengths and needs related to enhancing the development of the infant or toddler with disabilities, developed with concurrence of the family;
- (c) A statement of the goals and objectives expected to be achieved for the infant or toddler and the family, including the criteria, procedures, and time lines used to determine the degree to which progress toward achieving the outcomes is being made, and whether modifications or revisions of the outcomes or services are necessary;
- (d) A statement of specific early intervention services necessary to meet the individual needs of the infant or toddler with disabilities and the family; such statement should include the frequency, intensity and the method of delivering these services;
- (e) A statement of the health status, and medical needs of the infant or toddler and family to support the development of the child, and the names of the health care providers;
- (f) The projected dates for initiation of services and the anticipated duration of such services;

(g) The name of the case manager who will be responsible for the implementation of the plan and coordination with other agencies and persons; and

(h) The steps to be taken in supporting the transition of the infant or toddler to other services.

(4) The individualized family service plan shall serve as the singular comprehensive service plan for all agencies involved in providing early intervention services to the infant or toddler and the family.

(5) The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at six (6) months intervals or more frequently where appropriate based on the needs of the infant or toddler and the family.

[16-109, added 1991, ch. 253, sec. 1, p. 627.]

16-110. PROCEDURAL SAFEGUARDS. The procedural safeguards to be included in the statewide system shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents;

(2) The right to confidentiality of personally identifiable information;

(3) The opportunity for parents or guardian to examine and receive a copy of records relating to assessment, screening eligibility determinations, and the development and implementation of the IFSP;

(4) Procedures to protect the rights of the infant or toddler with disabilities whenever the parents or guardian of the child are not known or are unavailable or the child is a ward of the state, including the assignment of an individual (who shall not be an employee of any state agency involved in the provision of early intervention or other services to the child) to act as surrogate for the parents or guardian;

(5) Written notice to the parents or guardian of the infant or toddler whenever the state agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, placement, or the provision of early intervention services to the infant or toddler;

(6) Written consent of the parents or guardian of the infant or toddler whenever the state agency or service provider proposes to initiate or change the identification, evaluation, placement or the provision of early intervention services to the infant or toddler;

(7) Procedures designed to assure that the notice required in subsection (5) of this section fully informs the parents or guardian, in the parents' or guardian's native language or by an interpreter of all procedures available pursuant to this section; and

(8) Procedures for impartial complaint resolution.

[16-110, added 1991, ch. 253, sec. 1, p. 628.]

16-111. USES OF FUNDS. The use of federal P.L. 99-457, part H funds as well as state funds shall be allocated by the director through collaborative regional programs to implement the statewide system required under such law, in the following priority:

(1) For early intervention services to infants and toddlers with disabilities that are not otherwise provided from other public or private funds;

(2) To expand and improve on the services for infant[s] and toddlers with disabilities that are otherwise available; and

(3) For screening and tracking of infants and toddlers at risk of developmental delay.

[16-111, added 1991, ch. 253, sec. 1, p. 629.]

16-112. PROHIBITED USE OF FUNDS. The use of early intervention funds provided under this chapter to supplant funds from other sources is not permitted. All local and state programs for infants and toddlers with disabilities shall maintain the funding which supported infant and toddler programs at levels as of July 1, 1990.

[16-112, added 1991, ch. 253, sec. 1, p. 629.]

16-113. MAINTENANCE OF EXISTING PROGRAM LEVELS. Nothing in this chapter shall be construed to permit:

(1) The reduction of local, state, or federal medical or other assistance available;

(2) The alteration of eligibility under title V of the social security act (relating to maternal and child health);

(3) The alteration of eligibility under title XIX of the social security act (relating to medicaid for infant[s] and toddlers with disabilities);

(4) The reduction of early intervention services provided by the state department of education, the department of health and welfare, or the school for the deaf and the blind.

[16-113, added 1991, ch. 253, sec. 1, p. 629.]

CHAPTER 2

ACTIONS IN JUSTICES' COURTS -- PLACE OF TRIAL -- [REPEALED]