

**Chapter 170-400 WAC  
EARLY SUPPORT FOR INFANTS AND TODDLERS PROGRAM**

**FOR CONTRACTS STARTING ON OR AFTER THE EFFECTIVE DATE OF THESE RULES,  
CHAPTER 170-400 WAC APPLIES**

NEW SECTION

**WAC 170-400-0001 Authority.** RCW 43.215.020 establishes the department of early learning as the state lead agency, for Part C of the federal Individuals with Disabilities Education Act, with the responsibility and authority to set and enforce rules for the provision of early intervention services in Washington state. Federal authority for this chapter is 20 U.S.C. Sec. 1431-1444 and the Part C regulations in 34 C.F.R. Part 303, which includes receipt of federal funds for early intervention services.

NEW SECTION

**WAC 170-400-0010 Purpose.** This chapter, in conjunction with state and federal law and federally approved policies and procedures, establishes the requirements of the statewide early support for infants and toddlers program. This chapter describes the process for administering state and federal early intervention funds, reflects the department's commitment to quality early learning opportunities for infants and toddlers with disabilities and their families, and ensures the implementation of 20 U.S.C. Sec. 1431-1444 and 34 C.F.R. Part 303.

NEW SECTION

**WAC 170-400-0020 Applicability.** (1) This chapter applies to all early intervention providers, including school districts, involved in early intervention service provision for children receiving services from the early support for infants and toddlers program, whether or not the entity or individual receives state or federal funds.

(2) This chapter does not apply to any child with a disability receiving a free appropriate public education under chapter 392-172A WAC or 34 C.F.R. Part 300, Part B.

NEW SECTION

**WAC 170-400-0030 Definitions.** **"Administrative indirect"** means indirect costs such as, general management compensation, joint facility costs, contract administration, fiscal services, and general office supplies that are not allocated to direct services for infants, toddlers and their families.

**"Department"** means the department of early learning, the Washington state lead agency designated by the governor to receive state and federal funds to administer the early support for infants and toddlers (ESIT) program. These responsibilities include, but are not limited to, coordination of all funding and oversight of state and federal funding allocated to implement early intervention services.

**"Department-approved clarification memos"** means the ESIT program published guides and policy memos signed by the ESIT administrator and posted on the agency web site.

**"Early intervention services (EIS)"** means developmental services that include:

- (a) Assistive technology devices and services;
- (b) Audiology services;
- (c) Family training, counseling and home visits;
- (d) Health services;
- (e) Medical services;
- (f) Nursing services;
- (g) Nutrition services;
- (h) Occupational therapy;
- (i) Physical therapy;
- (j) Psychological services;
- (k) Service coordination;
- (l) Signed language and cued language;
- (m) Social work services;
- (n) Special instruction;
- (o) Speech-language pathology;
- (p) Transportation and related costs; and
- (q) Vision services.

**"Early support for infants and toddlers (ESIT) program"** means the statewide program within the department of early learning that administers all components of the birth to three early intervention system for eligible infants, toddlers and their families.

**"EIS provider"** means any ESIT-approved organization, public, private, tribal or nonprofit entity, school district, or an individual that provides EIS, whether or not the entity or individual receives funding from the ESIT program.

**"Local agreement"** means any written agreement required to implement ESIT services.

**"Natural environments"** means settings that are natural or typical for a same-aged infant or toddler without a disability, including the home or community settings.

**"Office of superintendent of public instruction"** means the state educational agency responsible for the supervision of public elementary schools and secondary schools, including the implementation of Part B.

**"Part B"** means special education of children with disabilities under the Individuals with Disabilities Education Act (IDEA), Part B, as amended, 20 U.S.C. Sec. 1431-1444.

**"Part C"** means the Individuals with Disabilities Education Act (IDEA), Part C, as amended, 20 U.S.C. Sec. 1431-1444 and 34 C.F.R. Part 303.

**"Policies and procedures"** means ESIT's federally approved policies and procedures for implementing EIS.

**"Potential eligibility"** means, based on existing assessment, evaluation, and the team's clinical understanding of the child's developmental status, the child is determined to be potentially eligible for services under Part B prior to the Part B required eligibility evaluation.

**"School district"** means a local educational agency administering elementary and secondary schools.

**"System of payments and fees"** means the federally required ESIT policy on families' financial contribution to their child's services.

#### NEW SECTION

#### **WAC 170-400-0050 Early intervention services (EIS) providers.**

EIS providers must:

- (1) Provide and implement EIS according to state and federal law.
- (2) Deliver services at a consistent level of frequency and intensity for a continuous twelve-month period based on child and family need, and not on the availability of providers.
- (3) Provide or otherwise arrange for all EIS included in the individualized family service plan. Wait lists and capping of services are prohibited.
- (4) Enhance the capacity of the family in facilitating their child's development through natural learning opportunities at home or in community settings where typically developing children live, learn, or play.

#### NEW SECTION

**WAC 170-400-0070 Child find and referral.** (1) Early intervention service providers must meet the requirements of state and federal law.

(2) The department and local lead agencies will lead child find efforts and referral activities for the early support for infants and toddlers program. They may consult with state and local partners.

#### NEW SECTION

**WAC 170-400-0100 Natural environments.** (1) Early intervention service (EIS) providers must meet the requirements set forth in state and federal law.

(2) EIS must be provided in natural environments to the maximum extent appropriate based on the needs of the child.

(3) EIS may only occur in a setting other than a natural environment if one or more of a child's individualized family services plan (IFSP) outcomes cannot be met by providing EIS in a natural setting, as determined by the parent and the IFSP team.

NEW SECTION

**WAC 170-400-0130 System of payments and fees.** Early intervention service (EIS) providers must follow the system of payments and fees set forth in state and federal law, policies and procedures and department-approved clarification memos.

NEW SECTION

**WAC 170-400-0140 Use of funds.** (1) Early intervention service (EIS) providers must follow the use of funds guidance set forth in state and federal law.

(2) State and federal funds for the early support for infants and toddlers (ESIT) program may only be expended for ESIT required activities as outlined in state and federal law.

(3) Administrative indirect expenses are limited to no more than ten percent of the total moneys received by an entity providing ESIT components or direct services.

(4) Administrative indirect expenses are limited to no more than five percent of the total moneys received by an entity acting as a pass through for state or federal funding.

(5) Under the department's authority, local ESIT budgets will be monitored and subject to audit for allowable expenditures.

(6) EIS providers must bill all applicable funding sources including public and private insurance and families, prior to using state and federal funds for early intervention services.

(7) Public funds for the ESIT program may not be used for transition activities required under Part B of the Individuals with Disabilities Education Act.

(8) Under Part C, these allowable transition activities may be paid for with early intervention funds. EIS provider participation in:

(a) The decision of potential eligibility for Part B;

(b) Transition planning and activities in the IFSP, including:

(i) Discussions with, and training of parents, as appropriate, 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.

(c) Facilitation and participation in the transition conference;

(d) Sharing of information, with parental consent; and

(e) Attending the eligibility and IEP meeting, upon parent's request.

NEW SECTION

**WAC 170-400-0150 Contracting and local agreements.** Early intervention services providers must comply with contractual provisions from the department, and contracts and local agreements approved by early support for infants and toddlers (ESIT) local lead agencies, in providing ESIT services.

NEW SECTION

**WAC 170-400-0160 Data collection and reporting.** Early intervention service providers must enter required data elements in the early support for infants and toddlers (ESIT) data management system and report on ESIT activities as required by contract or local agreement.

NEW SECTION

**WAC 170-400-0170 General supervision, monitoring, and enforcement.** All early intervention service providers are subject to general supervision, monitoring and enforcement actions through the early support for infants and toddlers program (ESIT) and/or ESIT's local lead agencies set forth in state and federal law, contracts, and local agreements.