



Quick-Guide to Preparing for Providing a Public Comment on Proposed Rules for Part C



On September 28th of this year, final regulations to Part C of the Individuals with Disabilities Education Act (IDEA 2004), which governs the Early Intervention Program for Infants and Toddlers with Disabilities, were published in the Federal Register. Did you know that they became law as of October 28th? States across the country are now in the process of drafting rules that reflect the final regulations. These rules must be finalized this spring, and the new regulations (including the rules determined at the state level) must be implemented by **July 1, 2012**.

The Ohio Division of Early Childhood (ODEC), with the support of the national Division of Early Childhood (DEC), wants to ensure that members of our subdivision (as well as others affected by the new regulations) fully understand the changes that are underway. ODEC also wants to encourage our members and the community to provide comments on the rules being written at the state level.

Noteworthy Changes to Part C

The new regulations include a variety of changes both small and large. Some of the principal changes include the following (shared from the DEC website):

- Transition requirements have been revised, including provisions related to notification of the local education agency (LEA) and state educational agency (SEA), timelines, an opt-out policy, the transition conference, and the transition plan.
- The 45-day required timeline from referral to the Individualized Family Service Plan (IFSP) meeting has been retained with the addition of some provisions permitting documentation of extraordinary circumstances for a delay
- Natural environment provisions have been revised to reflect the 2004 statutory change.
- Changes in the content of the IFSP have been made, including in the “early intervention services” and “other services” components.
- Several changes have been made to procedural safeguards, including provisions related to written prior notice, confidentiality, surrogate parents, and dispute resolution.
- Changes have been made in provisions related to financial responsibility, systems of payment and ability to pay as well as to the use of public benefits, insurance, and private insurance.
- Provisions related to monitoring, enforcement, reporting, and allocation have been included in a new subpart of the Part C regulations.



You can also view a brief 20 minute video released by the Office of Special Education and Rehabilitative Services (OSERS) that highlights the major changes to Part C at: <http://www.dec-sp.ed.org/PolicyAdvocacy>

Federal regulations vs. state/agency rules

Although the final regulations are technically law, states are provided with some measure of flexibility with regard to time so that they may propose rules related to federal regulations that reflect the laws, statutes, and regulations of the state. Although many laws are passed at the federal level, such as IDEA, ESEA, ADA, etc., each state must review such laws and regulations as well as designate a lead agency and/or program to oversee the preparation of state/agency rules in addition to oversight of the law within the state.

In the state of Ohio, the lead agency responsible for overseeing Part C of IDEA is the Ohio Department of Health (ODH). In turn, ODH has designated the Bureau of Early Intervention Services (BEIS) as the central organization, and BEIS supports and provides the Help Me Grow (HMG) program to children with disabilities and their families. For more information on how the layers of government work, please visit <http://www.ohiohelpmefgrow.org/professional/laws/laws.aspx>

Since the final regulations for Part C have now been published, ODH has been drafting a set of new rules that are designed to guide the implementation of the law. If you are an early intervention services provider, administrator, or family member of an infant or toddler with a disability, you should have received notice of the upcoming changes. Further, it is likely you have been asked to consider providing public comment on the proposed rules before the draft is finalized. The public comment period ends December 30th; this spring, the rules must be finalized and then *fully implemented by July 1st, 2012*. Now is the time to act!

What can I do?

This is your opportunity to make your voice heard! By law, the agency proposing rules must provide the public with the opportunity to weigh in. Moreover, they must consider all relevant comments provided in the final revisions.

It is important to realize you don't need to read the final regulations in their entirety in order to provide a comment (if you are ambitious, however, please do!). As an individual that is familiar with the current rules in place (what you can, should, or must do as a practitioner, parent, or administrator), there are several strategies you can use to review the ODH draft rules and consider providing comment.

1. **Review the proposed rules from ODH.** View the HMG proposed rules for the state of Ohio at: <http://www.odh.ohio.gov/rules/drafts/d3701-8.aspx>



- **Reflect on your reaction, thoughts, and/or feelings on the proposed rules.** Is there anything about the rules that are unclear? Do the rules leave you with any questions regarding your responsibilities and rights as a practitioner, administrator, or parent of an infant or toddler with a disability?
- **Carefully review an aspect of the proposed rules that is especially important to you.** Are you concerned with the screening process or Child Find procedures? Perhaps you want to know what changes were made regarding transitions. You whether anything about the language, definition, or procedures described is unclear, incomplete, or otherwise in need of a suggestion. [3701-8-01](#), the proposed definitions, may be of particular interest.
- **Consider reviewing proposed ODEC comments.** ODEC and its Board and Leadership team will be providing comments over the next several weeks; if you are interested in receiving an email alert regarding any comments that we make, or if you would like to review our comments and add to them, please email the ODEC Children and Youth Action Network (CAN) Coordinator at anlyons@kent.edu.



2. Another way to truly be a part of the process, if you feel so inclined, is to **compare the federal regulations with the proposed rules for Ohio**. To do so, it is important you have a general understanding of the final regulations that were passed by Congress. More specifically, you want to make sure you know how the final regulations differ from those that have been in place to date.

- **Get familiar with the new regulations.** The Division for Early Childhood (DEC) provides a summary of the major changes to Part C on the Policy and Advocacy webpage. In addition, the site provides a link to a side-by-side comparison document prepared by CEC, DEC, and the IDEA Infant Toddler Coordinators Association (ITCA) . Please visit: http://www.dec-sped.org/PolicyAdvocacy/IDEA_Part_C_Changes

If you would like to read the full final regulations published in the Federal Register, please visit: <http://www.federalregister.gov/articles/2011/09/28/2011-22783/early-intervention-program-for-infants-and-toddlers-with-disabilities>

- **Consider whether the proposed rules meet the intent of the final regulations.** Do the rules adequately convey the final regulations? Are there any gaps (e.g., are any major changes not mentioned or described inaccurately)?





No matter how you feel you can best become involved and where you would like to offer input, you must **provide a comment on the rules by December 30, 2011**. Comments must be provided in writing and delivered by the end date of the public comment period. Comments should include your full name and address, as well as your affiliation if possible and applicable (though not necessary).

Comments do not need to follow any specific format, although you may want to use full sentences to be clear. Additionally, it would be helpful if you refer to the rule number/and or rule title you are commenting on. For example, you might begin with “In regard to 3701-8-01 (Z)...” or “Regarding the HMG draft definitions, section V pertaining to the definition of evidence-based...”. You would then provide your comment on that matter.

Comments can be delivered through two methods:

- a) Postal mail: 246 N. High Street, Columbus, OH 43215; or
- b) Email beis@odh.ohio.gov.

In order to avoid delay or non-delivery, please specify “HMG RULES COMMENT” on the envelope and/or in the email subject line.

How else can I be involved in advancing the recommendations/policies of DEC/ODEC?

1. Sign up at www.business.ohio.gov/reform/ for the State of Ohio’s Rules Electronic Notification System. This will allow you to receive notices and communications regarding the creation, amendment, rescission or continuation without change of any rule.
2. Review and comment on draft rules.
3. Serve on advisory committees and participate in meetings with associations and advocacy groups
4. Review the rule proposal and public hearing notices.
5. Attend ODH and JCARR public hearings.
6. Contact the ODEC CAN Coordinator, Ashley Lyons, at anlyons@kent.edu. A new webpage, blog, and other platforms for sharing, discussing, and communicating will be available soon. The mission of the Ohio Children and Youth Action Network is to empower members and interested citizens to participate in the policymaking process at the local, state, and federal levels. We hope to build a strong network of practitioners, administrators, supervisors, consultants, parents, and other interested parties of the state that are dedicated to advancing best practice, service delivery and coordination (and more) through grassroots advocacy.