

581-015-2700 revisions (SB 13 and SB 16)

Definitions — EI/ECSE Program

For the purposes of OAR 581-015-2700 to 581-015-2910, the definitions in this rule and 581-015-2000 apply.

(1) "Assessment" means the ongoing procedures used by appropriate qualified personnel to identify the infant, toddler, or child's unique strengths and needs throughout the period of the infant, toddler, or child's eligibility. For EI this includes the initial assessment of the infant or toddler and family prior to the first IFSP meeting.

(2) Bureau of Indian Education (BIE) means schools which are funded by the Bureau of Indian Education and not subject to the jurisdiction of the SEA other than the Bureau of Indian Education, but only to the extent that the inclusion makes the school eligible for programs which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

(23) "Communication" means receptive or expressive language development.

(34) "Contractor" means the agency designated by the Department to administer the provision of EI and ECSE within selected service areas.

(45) "Department" means the Oregon Department of Education.

(56) "Designated referral and evaluation agency" means the agency in each county designated to be the referral point for parents and others who suspect that an infant, toddler, or child may need early intervention or early childhood special education, and to be responsible for assuring that all referred infants, toddlers, and children suspected of having a disability receive evaluation for potential eligibility for early intervention and early childhood special education.

(67) "Early childhood special education (ECSE)" means free, specially designed instruction to meet the unique needs of a preschool child with a disability, three years of age until the age of eligibility for public school, including instruction in physical education, speech-language services, travel training, and orientation and mobility services. Instruction is provided in any of the following settings: home, hospitals, institutions, special schools, classrooms and community childcare or preschool settings, or both.

(78) "Early intervention and early childhood special education assistants" means individuals who implement program activities under the direct supervision of the professional personnel.

(89) "Early intervention and early childhood special education specialists" means professionals-qualified personnel who implement or coordinate the implementation of individualized family service plans.

(910) "Early intervention (EI)" means developmental services for ~~preschool children with disabilities~~ infants and toddlers from birth ~~until three years through age two with a disability~~ (disability(ies) of age, including Indian ~~children~~ infants or toddlers and ~~children~~ infants or toddlers who are homeless and their families. ~~;~~ ~~†~~ These services are:

- (a) Based on scientifically-based research, as defined in OAR 581-015-2000, to the extent practicable;
- (b) Designed to meet the child infant or toddler's developmental needs and the needs of the family related to enhancing the child infant or toddler's development as identified by the IFSP team, in any one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development;
- (c) Selected in collaboration with the parents;
- (d) Provided:
 - (A) Under public supervision;

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(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and

(C) In conformity with an individualized family service plan;

(e) At no cost to parents;

(f) Meet all applicable state requirements; and

(g) Include the following types of intervention services (defined in 303.13(1): family training, counseling, in-home visits; special instruction; speech-language pathology and audiology services, and sign language and cued language services; occupational therapy; physical therapy; psychological services; service coordination; medical services only for diagnostic or evaluation purposes; early identification, screening, and assessment services; health services necessary to enable the child-infant or toddler to benefit from other early intervention services; nursing services, nutrition services, social work services; vision services; assistive technology devices and services; and transportation and related costs that are necessary to enable a child-infant or toddler and the child infant or toddler's family to receive another early intervention service.

~~(1011)~~ "Educational records" means those records that are:

(a) Directly related to a student; and

(b) Maintained by a primary contractor or subcontractor.

~~(12)~~ Educational service agencies and other public institutions or agencies. This includes the following:

~~(Aa)~~ A regional public multiservice agency-

~~(iA)~~ Authorized by State law to develop, manage, and provide services or programs to LEAs; and

~~(iiB)~~ Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State.

~~(Bb)~~ Any public institution or agency having administrative control and direction of a public elementary school or secondary school, including public charter school, that is established as an LEA under State law.

~~(Cc)~~ Entities that meet the definition of intermediate educational unit or IEU in section 602(23) of IDEA, as in effect prior to June 4, 1997.

~~(1413)~~ "Evaluation" means the procedures used by qualified personnel to determine;

(a) A child-infant, toddler, or child's initial eligibility for EI or ECSE services;

(b) A child-infant, toddler, or child's continuing eligibility for EI or ECSE services; and

~~(1214)~~ "Health Services" means services necessary to enable an otherwise eligible child-infant or toddler to benefit from the other early intervention services under this part during the time that the child-infant or toddler is eligible to receive early intervention services.

(a) The term includes:

(A) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of Dressings or colostomy collection bags, and other health services; and

(B) Consultation by physicians with other service providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early intervention services.

(b) The term does not include:

(A) Services that are:

(i) Surgical in nature;

(ii) Purely medical in nature; or

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(iii) Related to the implementation, optimization, maintenance, or placement of a medical device that is surgically implanted.

~~(iv)~~ Nothing in this part limits the right of an infant or toddler with a disability with a surgically implanted device to receive the early intervention services that are identified in the child, infant, or toddler's IFSP as being needed to meet the child, infant, or toddler's IFSP and developmental outcomes.

~~(v)~~ Nothing in this part prevents the EI provider from routinely checking that either the hearing aid or the external components of a surgically implanted device of an infant or toddler with a disability are functioning properly;

(B) Devices necessary to control or treat a medical condition; and

(C) Medical-Health services (such as immunizations and regular "well baby" care) that are routinely recommended for all children, infants and toddlers.

~~(1315)~~ "IFSP Content" means the definition as stated in OAR 581-015-2815 which includes:

(a) "Frequency" which means the number of days or sessions that a service is provided;

(b) "Duration" which means projecting when a given service will no longer be provided (such as when the infant, toddler, or child is expected to achieve the outcomes in his or her IFSP);

(c) "Intensity" which means whether a service will be provided on an individual basis;

(d) "Method" which means how a service is provided; and

(e) "Location" which means the actual place or places where a service will be provided.

~~(1416)~~ "Independent educational evaluation (IEE)" means an evaluation conducted by a qualified examiner who is not employed by the Department, the contractor, or subcontractor responsible for the infant, toddler, or child in question.

~~(1517)~~ "Indian" means an individual who is a member of an Indian tribe. "Indian Tribe" means any federal or state Indian tribe, band, rancheria, pueblo, colony, or community, including any native village or regional village corporation

~~(1618)~~ "Individualized family service plan (IFSP)" means a written plan of early childhood special education, related services, early intervention services, and other services developed in accordance with criteria established by the State Board of Education for each infant, toddler, or child eligible for services under this chapter.

~~(19)~~ "Infant or toddler with disabilities" means infant or toddlers evaluated in accordance with OAR 581-015-2775 as having autism spectrum disorder (OAR 581-015-2130), deafblindness (OAR 581-015-2140), deaf and hard of hearing (OAR 581-015-2150), orthopedic impairment (OAR 581-015-2160), traumatic brain injury (OAR 581-015-2175) visual impairment (581-015-2180 or developmental delay (OAR 581-015-2127) who, by reason thereof, need early intervention services.

(a) The terms used in the definition of an infant or toddler with a disability are defined as follows:

(A) "Autism Spectrum Disorder" means a developmental disability that is currently significantly affecting or has the potential to significantly affect an infant or toddler's developmental progress related to verbal and nonverbal communication and social interaction, and is generally evident before age three. The infant or toddler's disability does not need to be presently affecting their development for the infant or toddler to be eligible for EI services. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

(B) "Deafblindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental needs that the infant or toddler cannot be

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accommodated in special education programs designed solely for infants or toddlers having deafness or blindness, affecting or has the potential to significantly affect an infant or toddler's developmental progress. The infant or toddler's disability does not need to be presently affecting their development for the infant or toddler to be eligible for EI services.

(C) "Deaf or hard of hearing" means an impairment in hearing, whether permanent or fluctuating, that is so severe that the infant or toddler is impaired in processing linguistic information through hearing, with or without amplification, affecting or has the potential to significantly affect an infant or toddler's developmental progress. The infant or toddler's hearing level does not need to be presently affecting their development for the infant or toddler to be eligible for EI services.

(D) "Orthopedic Impairment" means a severe orthopedic impairment affecting or has the potential to significantly affect an infant or toddler's developmental progress. The infant or toddler's disability does not need to be presently affecting the infant or toddler's development for the infant or toddler to be eligible for EI services. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(E) "Traumatic Brain Injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech affecting or has the potential to significantly affect an infant or toddler's developmental progress. The infant or toddler's disability does not need to be presently affecting their development for the infant or toddler to be eligible for EI services. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

(F) "Visual Impairment" means an impairment in vision, even with correction, affecting or has the potential to significantly affect an infant or toddler's developmental progress. The infant or toddler's disability does not need to be presently affecting their development for the infant or toddler to be eligible for EI services. The term includes those infants and toddlers who are partially sighted or blind.

(G) "Developmental Delay" means a two standard deviations or more below the mean in one or more of the following developmental areas, or 1.5 standard deviations below the mean in two or more of the developmental areas:

- (i) Cognitive development;
- (ii) Physical development;
- (iii) Communication development;
- (iv) Social or emotional development;
- (v) Adaptive development.

(4720) "Informed clinical opinion" means the acquisition and interpretation of multiple sources of information as part of the evaluation and assessment process. This includes evaluation and assessment results, observation reports, previous testing results, medical data, parent reports, and other evaluative information. A review of this information is used in forming a determination regarding current developmental status and the need for EI.

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(a) Informed clinical opinion may be used as an independent basis to establish an infant, toddler, or child's eligibility under this Section even when other instruments do not establish eligibility.

(b) In no event may informed clinical opinion be used to negate the results of evaluation instruments used to establish eligibility.

(1821) "Initial Assessment" means the assessment of an infant, toddler, or child and the family assessment that is conducted prior to the infant, toddler, or child's first IFSP meeting.

(1922) "Instruction" means providing families with information and skills that support the achievement of the goals and outcomes in the infant, toddler, or child's IFSP and working with preschool-infants, toddlers, or children with disabilities in one or more of the following developmental areas: communication development, social or emotional development, physical development, including vision and hearing, adaptive development, and cognitive development.

(2023) "Lead Agency" means the agency designated by the Governor under Section 635(a)(10) of IDEA and § 303.120 that receives funds under Section 643 of the Act to administer the responsibilities under Part C of the Act.

(2424) "Local Education Agency" or (LEA)

(a) LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, or other political subdivision of the State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools

(2225) "Monitoring" means activities carried out by the Department and its contractors which measure the subcontractor's compliance with state and federal mandates for the provision of EI and ECSE.

(2326) "Multidisciplinary" means the involvement of two or more separate disciplines or professions and with respect to-

(a) evaluation of the infant, toddler, or child and assessments of the infant, toddler, or child and family,

(b) for the IFSP Team this means the involvement of the parent and two or more individuals from separate disciplines or professions and one of these individuals must be the service coordinator, and

(c) This may include one individual who is qualified in more than one discipline or profession.

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(2427) "Natural environment" means settings that are natural or normal for the infant, toddler, or child's age peers who have no disability.

(2528) "Other services" means those services that may be provided to preschool-infants, toddlers, or children with disabilities and to their families that are not EI or ECSE services and are not paid for with EI or ECSE funds.

(2629) "Parent" means:

(a) One or more of the following persons:

(A) A biological or adoptive parent of the infant, toddler, or child;

(B) A foster parent of the infant, toddler, or child,

(C) A legal guardian, generally authorized to act as the infant, toddler, or child's parent, or authorized to make EI, ECSE, educational health, or developmental decisions for the infant, toddler, or child not the State if the infant, toddler, or child is a ward of the State).

(D) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the infant, toddler, or child lives, or an individual who is legally responsible for the infant, toddler, or child's welfare; or

(E) A surrogate parent who has been appointed in accordance with OAR 581-015-2320, for school-age children, or 581-015-2760 for preschool infants, toddlers, or children.

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(b) Except as provided in subsection (c), if more than one party is qualified under subsection (a) to act as a parent and the biological or adoptive parent is attempting to act as the parent, the biological or adoptive parent is presumed to be the parent unless the biological or adoptive parent does not have legal authority to make EI or ECSE educational decisions for the infant, toddler, or child.

(c) If a judicial decree or order identifies a specific person under subsection (a) to act as the parent of an infant, toddler, or child or to make ~~educational or EI~~ ECSE decisions on behalf of an infant, toddler, or child, then that person will be the parent for special education purposes, except that if an EIS provider or a public agency provides any services to an infant, toddler, or child or any family member of ~~that the~~ infant, toddler, or child, that EIS provider or public agency may not act as the parent for ~~that the~~ infant, toddler, or child.

(2730) "Parent Training and Information Center" means a center assisted under section 671 or 672 of IDEA

(2831) "Periodic review" means a review of the IFSP for an infant, toddler, or child and the infant, toddler, or child's family. An EI or ECSE program or parent may request a review of the IFSP.

(2932) "Personally Identifiable Information" means information as identified in the Family Educational Rights and Privacy Act (FERPA) found at 34 CFR 99.3 and OAR 581-015-2000(23), except any reference to a "student" means an infant, toddler, or child in this part and any reference to a "school" means an EIS provider as used in this part.

(3033) "Physical development" means gross or fine motor development.

(3134) "Preschool child with disabilities" means all children from:

(a) Birth ~~until three years of age~~ through 2, including infants and toddlers who are eligible for EI services under OAR 581-015-2780(3); or

(b) Three years of age to eligibility for public school who are eligible for ECSE services under OAR 581-015-2795.

(3235) "Professional Development Plan" means a written document specifying the name of the employee, the position, current qualifications, current deficits, an accounting of steps to be taken to rectify deficits including timelines, persons responsible, and the final date by which the plan will be complete.

(3336) "Public agency" or "public agencies" means the lead agency and any other agency or political subdivision of the state.

(3437) "Qualified Personnel" means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services.

(3538) "Related services" includes transportation and such developmental, corrective, and other supportive services, including orientation and mobility services, speech language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation including therapeutic recreation, school health services and school nurse services, counseling, social work services, parent counseling and training, and medical services, as may be required to assist an infant, toddler, or child with disabilities, three years of age until the age of eligibility for public school, to benefit from special education or early childhood special education and includes early identification and assessment of disabling conditions. Medical services shall be for diagnostic and evaluation purposes only. This definition incorporates the exception for services for children with surgically implanted devices, including cochlear implants, in 34 CFR 300.34(b) and the definitions for individual related services in 34 CFR 300.34(c).

(3639) "Related services personnel" means professionals who consult, supervise, train staff, design curriculum, or implement related services.

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(3740) "Service coordination" means the activities carried out by a service coordinator to assist and enable an eligible infant, toddler, or child and the child's family to receive the rights, procedural safeguards and services that are authorized under the state's EI program and to coordinate access to other services designated on the IFSP.

(3841) "Sign Language and cued language services" include teaching sign language, cued language, and auditory/oral language, providing oral translation services (such as amplification), and providing sign and cued language interpretation.

(3942) "State Education Agency" or SEA means the State Board of Education or other agency or officer primarily responsible for State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law and the term includes the agency that receives funds under IDEA to administer the State's responsibilities under part B of the Act.

(4043) "State Interagency Coordinating Council" (SICC) means a council appointed by the Governor for IDEA Part C purposes in compliance with 34 CFR 303.600-303.605

(4144) "Subcontractor" means the agency or agencies selected by the contractor to provide services for EI and ECSE.

(4245) "Supervision" means the activities carried out by the Department and its primary contractors to oversee the provision of EI and ECSE services.

(4346) "Supervisor" means a professional who supervise and train staff, design curriculum, and administer EI or ECSE programs.

(4447) The following words are defined in OAR 581-015-2000:

(a) "Assistive technology device";

(b) "Assistive technology service";

~~(c)~~ "Audiological assessment";

~~(ed)~~ "Children with disabilities";

~~(de)~~ "Autism spectrum disorder" for ECSE;

~~(ef)~~ "Communication disorder Speech language impairment" for ECSE;

~~(fg)~~ "Deafblindness" for ECSE;

~~(gh)~~ "Developmental Delay" for ECSE;

~~(hi)~~ "Emotional disturbance behavior disability" for ECSE;

~~(ij)~~ "Hearing impairment""Deaf or hard of hearing" for ECSE;

~~(jk)~~ "Intellectual disability" for ECSE;

~~(kl)~~ "Orthopedic impairment" for ECSE;

~~(im)~~ "Other health impairment" for ECSE;

~~(mn)~~ "Specific learning disability" for ECSE;

~~(no)~~ "Traumatic brain injury" for ECSE;

~~(op)~~ "Visual impairment" for ECSE;

~~(pq)~~ "Consent";

~~(qr)~~ "Day";

~~(rs)~~ "Department";

~~(st)~~ "General curriculum";

~~(t)~~ "Health assessment statement";

(u) "Identification";

(v) "Individualized education program (IEP)";

(w) "Mediation";

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- (x) "~~Medical statement~~ Medical examination";
- (y) "Native language";
- (z) "Participating agency";
- (aa) "Personally identifiable information";
- (bb) "Placement";
- (cc) "Private school";
- (dd) "School district";
- (ee) "Short term objectives";
- (ff) "Special education";
- (gg) "Specially designed instruction";
- (hh) "Supplementary aids and services";
- (ii) "Superintendent";
- (jj) "Surrogate parent";
- (kk) "Vision examination;
- (kkll) "Ward of the state"; and
- (llmm) "Scientifically Based Research" _

Statutory/Other Authority: ORS 343.475

Statutes/Other Implemented: ORS 343.475, 34 CFR 300.5 - 300.45, 34 CFR 99.3, 34 CFR 303.4-303.37 & 34 CFR 303.600-303.605

History:

ODE 10-2019, temporary amend filed 03/25/2019, effective 03/25/2019 through 05/16/2019

ODE 20-2012, f. & cert. ef. 8-1-12

ODE 14-2012, f. 3-30-12, cert. ef. 4-2-12

Renumbered from 581-015-0900, ODE 10-2007, f. & cert. ef. 4-25-07

ODE 1-2004, f. & cert. ef. 1-15-04

ODE 2-2003, f. & cert. ef. 3-10-03

ODE 24-2000, f. & cert. ef. 10-16-00

EB 4-1995, f. & ef. 1-24-95

EB 23-1992, f. & cert. ef. 6-23-92

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