

South Dakota Birth to Three

Monitoring Procedures Manual

South Dakota Part C of IDEA Early Intervention Program

Monitoring Procedures Manual

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# Introduction

The Individuals with Disabilities Education Act (IDEA) Part C is known as the Birth to Three program in South Dakota with the Department of Education as the lead agency. Having been in operation for 30+ years, the program is housed in the Office of Early Childhood Services within the Division of Special Education (IDEA Part B) and Early Learning. The ECS office is comprised of Part C and the Head Start Collaboration Office. The administrator of the ECS office also serves as the Part C Coordinator.

The Birth to Three program contracts with six regional Birth to Three service coordination programs throughout the state. These regional programs provide dedicated service coordination for all 66 counties in South Dakota. South Dakota Birth to Three has a strong partnership with school districts as all eligibility and transition evaluations for Birth to Three are conducted by school district personnel. This creates a link for family engagement and communication between families, Birth to Three and the child’s resident school district. Direct services on Individualized Family Service Plans (IFSP) are provided by qualified EIS providers under contract with the lead agency. This includes 148 public school districts, and 100+ private entities consisting of health care entities, educational cooperatives, and private individuals.

The South Dakota Part C Birth to Three program has established a strong partnership with the State Interagency Coordinating Council (SICC), facilitating active and ongoing collaboration. Through regularly scheduled quarterly meetings, SICC members stay informed about program developments and data trends. To accommodate members’ significant travel distances, the majority of these meetings are held virtually. However, an annual in-person retreat is held, providing an opportunity for an in-depth review of data, analysis of trends, discussion of successes and challenges, and offering detailed guidance to the state team.

To ensure transparency, all SICC meeting dates, times, agendas, and minutes are posted on the South Dakota Boards and Commissions website at https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=57. These meetings are open to the public and are streamed live via South Dakota PBS. Meeting announcements are shared at least 72 hours in advance (excluding weekends and holidays), and information about how to join meetings virtually or in person is provided alongside the agendas. Accommodations are available upon request with adequate notice. Each meeting includes a Public Comment period, where the SICC Chair invites input from the public. This feedback is reflected in the presentation and meeting minutes.

Members of this stakeholder group represent a wide spectrum of South Dakota and are located throughout the state. To ensure a broad overview of the state early intervention program and demographics, SICC members represent a wide variety of programs and agencies such as Head Start / Early Head Start, the Division of Insurance, early intervention providers, parents, South Dakota’s Parent Training and Information Center (PTI) Parent Connection, South Dakota Department of Health Maternal, Infant and Early Childhood Home Visiting (MIECHV) Bright Start, South Dakota State University Early Childhood Personnel Preparation, South Dakota Medical Service/Medicaid, South Dakota Office of Coordination of Homeless Children, South Dakota Foster Care/Child Protection Services/Auxiliary Placement, South Dakota Department of Human Services/Developmental Disabilities, South Dakota Child Care Services, Birth to Three regional program contractors, South Dakota education cooperative Black Hills Special Services, Part B, Part B 619, school district special education administration, Tribal Head Start, Head Start Collaboration Office, South Dakota State Legislator and Part C staff.

The Birth to Three program has endeavored to create a culture of data use throughout the system with the engagement of stakeholders. Including the SICC’s engagement in the planning and writing the Birth to Three SPP/APR and SSIP and development of the program’s vision:

*SD Birth to Three contributes to the success of children with developmental delays and their families by providing dynamic, individualized early intervention services and supports by building on family strengths through every day routines and learning experiences.*

South Dakota Birth to Three has been using a legacy online data system, in which Individualized Family Service Plans are entered, for over a decade. This secure system allows for real time information for providers, service coordinators and state staff. Through this system, South Dakota can verify that regional programs and providers are consistently achieving high levels of compliance with IDEA requirements. South Dakota is pleased to announce a new comprehensive data system, known as South Dakota Early Intervention System (SEIDS) launched August 1, 2024.

OSEP-funded technical assistance centers, DaSy and ECTA, and guidance from OSEP has enabled the State to create a culture of data use both at the state and local level. Full implementation of the state’s new data system will enhance these opportunities, particularly for local EI programs given increased access to real-time data and reporting features.

# Section I: Service Delivery

**Lead Agency**-The lead agency for Birth to Three is the Department of Education (DOE). DOE receives Federal Part C funds to implement the program statewide. DOE state staff provides guidance to Service Coordinators and Early Intervention Providers in the areas of program implementation, data analysis, financial, and technical assistance.

**Regional Birth to Three Programs (Service Coordinators):**  The Birth to Three program has divided the state into six regions which include all 66 counties. Every five years, the Birth to Three program puts forth a Request for Proposal (RFP) to provide service coordination. This RFP is advertised to the public and interested organizations through the State of South Dakota Bureau of Administration's procurement management office. Upon approval, one-year contracts are approved with recipients submitting financial and budgetary information through quarterly progress reports. Annual funding is re-established based upon the respective region’s child find activities.

Service coordination is a critical part of the early intervention system. Service coordination, as defined by Part C of the Individuals with Disabilities Education Act (IDEA), is an active, ongoing process. It consists of the activities carried out by a service coordinator to assist and enable an eligible child and the child’s family to receive the rights, procedural safeguards, and services that are authorized to be provided under Part C. Each child eligible under Part C and the child’s family must be provided with one service coordinator. To be effective, the service coordinator needs to work in collaboration with families and early intervention service providers. Service Coordinators must continuously seek resources for families in order ensure the best outcomes for infants and toddlers and their families.

**Early Intervention (EI) Providers**- Direct services on Individualized Family Service Plans (IFSP) are provided by qualified EIS providers under contract with the lead agency. This includes 148 public school districts, and 100+ private entities consisting of health care entities, educational cooperatives, and private individuals. Each agency must provide evidence of background checks and certification or licensure to ensure their providers meet the State’s personnel standards. Documents are reviewed by Birth to Three state staff.

South Dakota Birth to Three has a strong partnership with school districts as all eligibility and transition evaluations for Birth to Three are conducted by school district personnel. This creates a link for family engagement and communication between families, Birth to Three and the child’s resident school district.

Direct service providers role is to support and increase the child’s participation in family and community life by building up the competence and confidence of parents to increase their child’s learning opportunities and participation in daily routines. Home visits are to build adult family member’s capacities to meet family identified needs

As stated in the program’s vision: *SD Birth to Three contributes to the success of children with developmental delays and their families by providing dynamic, individualized early intervention services and supports by building on family strengths through everyday routines and learning experiences.*

South Dakota Birth to Three early intervention focuses on family’s priorities. Research has shown, the more engaged families are with their child’s intervention the more likely they are to continue that throughout the week when the provider is not present. South Dakota Birth to Three does not support what is commonly referred to as the traditional or medical model involving a provider in the home multiple times per week providing clinical “therapy” to the child with the parent as an on-looker. Instead, families are a key component in each early intervention session and actively participate in meaningful activities.

**Birth to Three early intervention is:**

* An INDIVIDUALIZED routines-based home visiting service for children from birth to 36 months of age with developmental delays.
* A system of services and supports, specific to each family’s needs and priorities, to help understand their child’s development.
* A collaboration with the child’s parents, caregivers, childcare providers, professionals and others focusing on strengthening relationships between parents and the child.
* A structured time to build families understanding of their child’s needs and the skills to support those needs within their everyday routines so intervention occurs between visits.

**Early Intervention Model**

The most influential and impactful way South Dakota is increasing all parents / family’s capacity is through implementation of evidence-based practices. South Dakota, with stakeholder input, purposefully selected evidence-based practices when implemented as intended, increase parent/families’ competence and confidence working with their infant and toddler with disabilities. The Routines Based Interview (RBI) for family assessment, implemented by service coordinators is conducted with each family found eligible for Part C. Family priorities, identified from the RBI, lead to functional outcomes on the IFSP. The Getting Ready model from the University of Nebraska - Lincoln Center for Research on Children, Youth, Families and Schools, is implemented by direct service providers during early intervention sessions.

The Routines-Based Interview is a semi-structured interview about the family's day-to-day life, focusing on the child's engagement, independence, and social relationships. Its purposes are to create a strong relationship with the family, to obtain a rich and thick description of child and family functioning, to determining the family’s ecology and the family’s needs and writing child-level functional goals and family goals. Service coordinators facilitate the three components of this evidence-based practice with all families of infants and toddlers who are found eligible for Part C program. The first component, the Ecomap, is developed to determine and depict the family’s informal, intermediate, and formal supports. The Routines-Based Interview is the second component through which service coordinators establish positive relationships with families and provides a rich and deep description of child and family functioning. The third component consists of the functional outcomes which are family chosen, child-level and family level.

The Getting Ready model of early childhood intervention (Sheridan, Edwards, & Knoche, 2003) recognizes the transactional nature of young children’s development and the important role parents play in their success. In the Getting Ready model, collaborative partnerships between parents and DSP are encouraged to promote parent’s competence and confidence in maximizing children’s natural learning opportunities and preparing both parents and children for long-term success. Parent-child interactions in everyday experiences, mutual observations and goal-directed problem solving, and young children’s successful development constitute the input, processes, and outcomes of the Getting Ready model.

The combining of these two evidence-based practices results in greater family engagement and increased child and family outcomes. Early intervention, when done as intended result in:

• Enhanced ability for DSP to implement individualized and culturally sensitive early intervention home visits that emphasize parent child interactions during typical routines in children’s homes and early care settings;

• Greater ability to promote families’ understanding of and ability to positively support, young children’s physical, social, emotional, cognitive and language development; and

• Promote family awareness of strategies to increase language and literacy rich learning experiences for their children.

South Dakota holds strongly to the belief family engagement and the parent-child relationship and interactions is one of the most powerful predictors to improve outcomes.

# Section II: General Supervision

GENERAL SUPERVISION SYSTEM
The South Dakota Birth to Three program policies and procedures are based on the federal regulations for Part C of the Individuals with Disabilities Education Act (IDEA) at 34 CFR Part 303 and state rules at Article 24:14. The following is an overview of the State’s general supervision system:

INFRASTRUCTURE
The lead agency is the Department of Education. The Birth to Three program has divided the state into six regions which include all 66 counties. Every five years, the Birth to Three program puts forth a Request for Proposal (RFP) to provide service coordination. This RFP is advertised to the public and interested organizations through the State of South Dakota Bureau of Administration's procurement management office. Upon approval, one-year contracts are approved with recipients submitting financial and budgetary information through quarterly progress reports. Early intervention direct service providers are required to submit certification, licensure, and background checks to ensure they meet the state’s qualified standards. These documents are reviewed by Birth to Three state staff. Early intervention providers sign an annual Provider Agreement to abide by all federal and state laws and regulations which include requirements related to serving children in natural environments, implementation of the state's evidence-based model, confidentiality, conflict of interest, code of ethics/conduct and fiscal responsibilities including record keeping. In addition, the state Birth to Three office provides oversight to school district programs providing Birth to Three services to children who meet specific eligibility requirements.

In the summer of 2015, in conjunction with the State Systemic Improvement Plan Phase II, South Dakota restructured the Birth to Three program state leadership team. In order to better meet the needs of the Birth to Three program and support the systemic changes of the SSIP, a team member was designated to provide statewide technical assistance, a team member was devoted to data analysis and data quality, and another team member to the professional development associated with the evidence-based practices and the training that is ongoing. Each program specialist is, however, cross-trained for each area to ensure full assistance to Birth to Three partners. In the summer of 2019, the Part C program restructured again and brought a fiscal analyst to the team. This person is responsible for the oversight of all provider invoices and conducts focused monitoring and risk assessment of providers.

DATA SYSTEM
The State Birth to Three program has an online legacy data system that includes data on programmatic and demographic elements and includes all children's IFSP information and data points. In August 2024, the state Birth to Three team launched a new comprehensive data system referred to as South Dakota Early Intervention Data System (SEIDS). SEIDS is an integrated system for documenting the entire child record from referral to exiting the program. This comprehensive data management system enhances the state’s overall General Supervision data on programmatic and demographic elements and includes all children's IFSP information and data points. The system also facilitates the online billing process for early intervention services. The billing system allows early intervention providers to only bill for what was written by the IFSP team regarding frequency / intensity and location of early intervention services. Each provider reimbursement request is reviewed by Birth to Three state office staff to ensure state and federal regulations and guidelines are met before payment is approved. All provider reimbursement requests are linked to IFSPs thus providers are unable to bill for services that are not linked to an IFSP.

The SEIDS system maximizes data for the general supervision of Part C program. There is increased availability of quality data allowing for a more robust monitoring protocol. Along with state level access and reports, local service coordination and direct service providers have access to their program records promoting a culture of compliance, data informed decision making and teaming among IFSP team members.

There are several features that serve assist program users such a personal dashboard with reminders of timelines, reports for child count, primary service location, transition reports, IFSP due data prompt etc.

MONITORING
The Birth to Three state office conducts ongoing monitoring activities on all programs and services. The six regional programs are held responsible for implementing the Birth to Three program consistent with federal and state requirements. The state data system is the primary source of monitoring data. State staff are able to review compliance and reports on most SPP/APR indicators through the data system. In some instances, state staff conduct additional drill-down and inquiry to obtain information on reasons for potential delay or other factors important to consider in monitoring for requirements.

When an instance of noncompliance is identified, the state works with the entity to ensure and verify correction of the noncompliance according to the two federal requirement prongs of correction (OSEP 09-02). Depending upon the state’s verification results the state may issue a PreFinding Correction letter noting the corrected noncompliance according to the two federal requirements but not issuing a finding. If correction is not verified, then a Finding Letter is issued that requires verification of correction in both prongs according to federal requirements within one year. A corrective action plan (CAP) may be required depending on the scope and level of noncompliance. A CAP for compliance issues or an improvement plan for results performance slippage is developed involving the regional service coordinators and others (e.g., early intervention providers, school districts, etc.). State Birth to Three staff approve the corrective action plan or improvement plan and provide technical assistance, assuring all improvement activities are completed in accordance with federal requirements.

The state may determine to conduct an onsite focused monitoring based on findings, data slippage, parent information, past data reports etc. An onsite focused monitoring involves reviewing specific children’s files, interviewing service coordinators, early intervention providers, parents, etc. Findings resulting from the onsite focused monitoring are issued as necessary.

STATE PERFORMANCE PLAN

The State Birth to Three program has an online legacy data system that includes data on programmatic and demographic elements and includes all children's IFSP information and data points. State staff have access to the full data system in real time. The data system allows service coordinators to view reports relating to child count verification and SPP/APR indicators. There are several reports that serve as edit checks to assist service coordinators in ensuring the data they enter are valid and reliable. Examples of this would be Child Count Verification; Transition Conference Report; Exit Child List; etc.

For the annual monitoring of SPP/APR indicators, the state uses data from the second quarter of the Federal Fiscal year for indicators 1, 7 and 8. A full fiscal year of data is used for all other indicators.

For cyclical and targeted monitoring activities, the timeframe is determined based upon the dates of the monitoring, priority areas being monitored, the children and EI activities being reviewed.

POLICIES, PROCEDURES AND EFFECTIVE IMPLEMENTATION

South Dakota policies can be found at [https://sdlegislature.gov/Rules/Administrative/24:14](https://sdlegislature.gov/Rules/Administrative/24%3A14). Along with federal and state rules and regulations, the state has clearly defined manuals for service coordinators and direct service providers.

TARGETED TECHNICAL ASSISTANCE & PROFESSIONAL DEVLEOPMENT

The South Dakota Birth to Three program provides ongoing comprehensive technical assistance (TA) that includes the provision of specific technical assistance to regional service coordination programs and direct service providers. A dedicated state team member is available and provides daily real-time TA via telephone calls, emails, virtual meetings, and onsite visits as requested.

Scheduled service coordinator and direct service provider virtual meetings are offered to provide TA on specific topics including improvement strategies for data quality, SPP/APR indicator training, child outcomes, outreach with other state partners and collaboration with family/community support entities. These calls are pre-scheduled and include not only Part C state staff but also representation from early intervention partners and family resources such as the state’s Medicaid office responsible for reimbursements, IDEA PTI Center, EHDI, Deaf-Blind Project, SD School for the Deaf, Part B 619, Head Start Collaboration Office, and the state UCEDDS (University Center for Excellence in Development Disabilities Research and Service) to name a few.

The South Dakota Part C program, historically, relies heavily on technology to provide ongoing support to service coordinators and providers. Examples of this would include a state listserv which is used to send information to service coordinators, school districts, SICC members and early intervention providers statewide. The listserv is used to provide pertinent program information about policy and procedure updates, rules and regulations, program needs/shortages, and training opportunities. The state team also uses the results of the annual APR performance including the results from the annual parent surveys to help plan technical assistance activities.

Service coordinators quarterly submit additional professional development activities and case load data with TA responding as needed. All providers are added to the listserv along with SPED directors from all public-school districts. As new providers are signed on, their names are added to the listserv to ensure access to this source of communication.

Service coordinators contact information is shared among all state Birth to Three personnel, giving ease of access among providers and coordinators to share best practices and collaborate on issues.

The state staff have developed and provided local program staff a tool that encompasses selected IDEA Part C requirements including SPP/APR indicators and other federal/state rules and regulations. This is used by local program staff to determine the status of their implementation of IDEA Part C program requirements. It is also used to guide on-going supervision and continuous improvement. Regional programs can request technical assistance from state staff as needed to address topics and scenarios related to Part C program requirements and practice encounters.

The state office continues to communicate regularly with coordinators, providers, and families. Along with scheduled virtual meetings, if circumstances arise, the state will produce a pre-recorded TA session that is sent via a secure link to service coordinators, providers and school district staff with pertinent information and guidance and state office contact for questions. The Part C director, in role as Administrator of the Office of Early Childhood Services, takes part in monthly Department of Education management meetings which ensures alignment of program to other initiatives taking place in the state’s education system.

The South Dakota Birth to Three program provides ongoing comprehensive professional development (PD) that includes a dedicated state team member who is responsible for planning, implementing, and evaluating the implementation and scaling up of the evidence-based practice as well as supplemental professional development to meet the identified immediate needs of service coordinators and direct service providers. This professional development work is instrumental in the implementation of the State Systemic Improvement Plan (SSIP) and is fully integrated into the Birth to Three program’s work.

The South Dakota Birth to Three program’s Professional Development system has several components including:
1. All providers who work in the program must meet qualified personnel standards as required by federal and state regulations.
2. All new service coordinators receive several days of one-on-one trainings along with comprehensive online module training on evidence-based practices.
3. All new service coordinators receive peer coaching to reach fidelity in implementing evidence-based practice.
4. All new service providers receive one-on-one fiscal accountability and reimbursement training.
5. Annual training is held for all Birth to Three service coordinators on a statewide and/or regional basis in a face-to-face or virtual setting.
6. Monthly service coordinator calls are held with Birth to Three state staff and include updates on policies and procedures, and presentations on relevant topics by Parent Connection (State PTI) and other state agency partners (i.e. Department of Health, Medicaid, Department of Social Services Child Protection Division, Head Start, Part B 619 etc.). Topics have included implementation of routines-based home visiting, Routines Based Interview (RBI) implementation and fidelity, family outcomes, functional outcomes, child development, parent rights, hearing services, vision services, outcome writing, state and federal rules, interpreter services, transition planning, and resources and support for families during difficult times, etc.
7. Statewide and regional trainings are offered on topics such as early language development and literacy, family engagement, evidence-based practices, early childhood guidelines, and resources for families of children who are deaf and hard of hearing. These trainings are open to service coordinators and direct service providers.
8. Special topical trainings are offered in direct response to concerns brought forth by service coordinators and direct service providers related to behavior and mental health challenges families are facing. The state is contracting with two renowned specialists to provide mentoring and networking opportunities throughout the state. The SSIP portion of this report will provide additional details.
9. Periodic training events are also held as needed for service providers related to use of private insurance, Medicaid reimbursement, and tele-therapy.
10. An online platform is used continuously to support the ongoing professional development needs of service coordinators and direct service providers. This comprehensive learning opportunity provides a support system and promotes participation in ongoing professional development regardless of physical location. Within this online tool, modules have been developed to meet the specific needs of the early interventionist in implementing identified evidence-based practices and measuring child and family outcomes. Using this platform, the South Dakota Birth to Three program is building and implementing a continuum of learning opportunities for our early interventionists regardless of their role in the Birth to Three program. Established as a private learning community, participants can also access research, a video library, discussion boards and blogs. Resources are available for new and seasoned early interventionists. This online tool is facilitated by Birth to Three state professional development staff. The online platform provides cost-effective training opportunities for the SSIP. It also proves a reliable tool to present current and accurate information to all early interventionists.
11. Periodic training opportunities are provided in collaboration with other state and community agencies including the Center for Disabilities, Part B, Parent Connection, Head Start, Medicaid, MIECHV, Child Care Services and Human Services.

EFFECTIVE DISPUTE RESOLUTION

Public and parent concerns may be submitted to the state office at any time. Program contact information and a 1-800 number is available on the Birth to Three website and public awareness materials. Dispute resolution processes consistent with federal and state regulation are available including state administrative complaint resolution, a due process hearing, and mediation.

South Dakota Birth to Three uses a variety of responses to improve and sustain correction and results. When an instance of noncompliance is identified, the state issues a finding of non-compliance and works with the entity to ensure and verify correction of the noncompliance according to federal requirements. South Dakota Birth to Three uses “pre-finding correction” when both federal requirements for verifying correction are met prior to issuing a finding.

Correction of non-compliance is required as soon as possible, but no later than one year.

A corrective action plan (CAP) may be required as part of the finding, depending on the scope and level of noncompliance. A CAP for compliance is developed involving the regional service coordinators and others (e.g., early intervention providers, school districts, etc.). State Birth to Three staff approve the corrective action plan and provide technical assistance, assuring all activities are completed in accordance with federal requirements.

If a regional program or provider does not correct the noncompliance within one year, the state uses the additional sanctions as identified in writing to the agency. The content of the letter would include the following information:
1. Failure to voluntarily correct an identified deficiency constitutes a failure to administer the program in compliance with federal law.
2. The action the Part C Program / State Department of Education intends to take in order to enforce compliance with the state and federal law.
3. The right to a hearing prior to Part C exercise of its enforcement; and
4. The consequences of the Part C enforcement action on continued and future state and federal funding.

South Dakota enforces a range of sanctions for noncompliance, including the potential termination of contracts. If noncompliance is not corrected within one year, the state may require the entity to provide additional data and participate in mandated technical assistance. Additionally, the state may delay reimbursements or require refunds for monetary discrepancies. The state may also delay the referral of new children or pause services for existing children. Finally, as specified in the annual contracts, the state has the authority to terminate the agreement, prevent the entity from future contracts with the program and lead agency, and restrict contracts with other state agencies.

FISCAL MANAGEMENT

South Dakota Part C, Birth to Three is funded through federal dollars awarded by the Individual Disabilities Education Act, South Dakota Maintenance of Effort and other funds. Using these dollars, the Birth to Three program provides or purchase functions and services at no cost to parents, as required by the federal Individuals with Disabilities Education Act (IDEA) Part C the following: A. Implementing child find requirements B. Evaluation and assessment, including the functions related to evaluation and assessment C. Service coordination services D. Administrative and coordinative activities related to the development, review, and evaluation of individual family service plans (IFSPs), interim IFSPs, and implementation of the procedural safeguards and other components of the statewide program of early intervention services. The Birth to Three program does not charge family fees for early intervention services.

South Dakota has incorporated public insurance (Medicaid) and private insurance into the state’s fund source. With parental consent, all eligible direct service providers must bill Medicaid directly for services. Private insurance is billed directly by provider agencies, with parental consent and if the provider is recognized by the family’s insurance carrier. The state’s SEIDS program tracks the appropriate payor (i.e. Medicaid, private insurance, Part C), if the provider is unable to bill either of these and/ upon producing evidence of denial the state Part C funds are accessed.

The state lead agency is responsible for all contracts with service coordination regions and direct service provider entities. Service coordination regions are reimbursed on a quarterly basis according to their approved annual budget. Direct service providers are reimbursed monthly in accordance with services delivered and aligned with the child’s IFSP.

On a regular basis Birth to Three considers information obtained from each of the components of the General Supervision system to inform necessary activities and supports for another component of the system. Example, monitoring findings inform technical assistance or policy clarification. General supervision activities will continue regardless of disasters, such as human made, or natural.

# Section III: Dispute Resolution

Outlined below is an overview of the Birth to Three formal options available for resolving disputes.

Administrative Complaints:

An individual or organization, including those from another state, who wish to file a complaint shall file the complaint in writing with the lead agency.

A complaint shall include:

* A statement that the Department, a Birth to Three provider, or a public agency has violated a requirement of Part C;
* The facts upon which the statement is based;
* The signature and contact information of the complainant; and
* If alleging violations with respect to a specific child:
	+ The name and address of the residence of the child;
	+ The name of the provider agency serving the child;
	+ A description of the nature of the problem of the child, including facts relating to the problem; and

A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

The party filing the complaint shall transmit a copy of the complaint to the entity about whom the complaint is filed.

The lead agency shall notify the complainant if the complaint does not constitute a matter involving Part C and the matter will be closed.

If the complaint raises issues that an impartial due process hearing decision addresses, the lead agency shall proceed to investigate only those Part C issues in the complaint, if any, that the impartial due process hearing decision does not address. If a complaint is also the subject of an impartial due process hearing, or contains multiple issues of which one or more are part of that hearing, the lead agency shall set aside any part of the complaint that the impartial due process hearing is addressing until the conclusion of the impartial due process hearing.

During the investigation, the lead agency:

* Makes a determination if an independent on-site investigation is necessary, and conducts the investigation accordingly;
* Provides the complaint with an opportunity to respond to the complaint, including at a minimum a:
* Proposal to resolve the complaint; and
* Opportunity for the person who has filed the complaint and the other parties to the complaint to voluntarily engage in mediation.
* Gives the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
* Conducts interviews with the complainant, the respondent(s) and any other relevant party including REICs and state agencies, if necessary.
* Reviews all relevant information, including the results of any on-site investigation, pertinent written records and documents such as forms, reports and files, and any additional information provided by the party(s) and make an independent determination as to whether a requirement of Part C of IDEA has been violated;
* After reviewing all relevant information, make an independent determination as to whether a violation of a Part C requirement or NJEIS policy and procedure has occurred.

Within 60 calendar days of receipt of the complaint,unless exceptional circumstances exist with respect to a particular complaint or the parent or the parties to the complaint agree to extend the time to engage in mediation. The lead agency issues a written determination to the complainant and the named party(s) that addresses each allegation in the complaint and contains findings of fact and conclusions for each allegation in the complaint and the reasons for the final decision.

In resolving a complaint in which the lead agency finds a failure to provide appropriate services, the lead agency must address:

* How to remediate the denial of appropriate services, including, as appropriate, the awarding of monetary reimbursement, compensatory services, or other corrective action appropriate to address the needs of the child and the child’s family; and
* Appropriate future provision of services for all infants and toddlers with disabilities and their families.

The lead agency has procedures for the effective implementation of the final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

Any retaliation against the complainant is unlawful and may lead to other proceedings.

Mediation:

A request for mediation shall be in writing, signed and dated.

* A request for mediation made on behalf of a parent that is signed by an entity other than the parent shall be accompanied by written consent of the parent authorizing:
	+ The representative to make the request on behalf of the parent; and
	+ The lead agency to communicate with the representative about the child and family.

The parent’s participation in mediation is voluntary in nature, and the parent may refuse or withdraw from the mediation process at any time.

The mediation cannot be used to deny or delay a parent’s right to an impartial due process hearing or any other rights afforded pursuant to Part C, including resolution of a complaint.

The parent has the right to request an impartial due process hearing or file a complaint at any time in the process.

Mediation is a non-adversarial process, and all discussions held during the mediation shall remain confidential and cannot be used as evidence in any subsequent impartial due process hearing or civil action. It is not necessary to have an attorney at the mediation and if the parent decides not to bring an attorney, the other parties cannot bring attorneys to the mediation.

The lead agency shall bear the costs of the mediation.

The mediation shall be held at a date, time, and location that is convenient to the parties.

The mediation process, including issuance of a written mediation agreement, shall be completed within 30 calendar days of the receipt of the request for mediation unless a request for mediation, an impartial due process hearing or complaint investigation was requested at the same time.

If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution. The agreement must state that all discussions that occurred during the mediation process shall remain confidential and may not be used as evidence in any subsequent impartial due process hearing or civil proceeding.

Any agreement reached at the mediation shall be signed by both the parent and representative of the NJEIS that has the authority to bind such agency before the conclusion of the mediation. The service coordinator will incorporate the terms of the mediation agreement into the IFSP as appropriate.

A written, signed mediation agreement is enforceable in any state court of competent jurisdiction or in a federal district court of the United States.

Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent impartial due process hearing or civil proceeding of any federal court or state court.

Impartial Due Process Hearing:

An impartial due process hearing is an administrative hearing conducted by an impartial hearing who

* Is not an employee of the Department or the provider agency involved in the provision of early intervention services;
* Is not involved in the care of the child; and
* Does not have a personal or professional interest that would impair the person’s objectivity in implementing the hearing process.

The parent of child referred to Part C, is given the rights listed below in any due process hearing carried out under this section.

* To be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children with disabilities;
* To present evidence and confront, cross-examine, and to compel the attendance of witnesses;
* To prohibit the introduction of any evidence at the proceedings that has not been disclosed at least five calendar days before the hearing;
* To obtain a written or electronic verbatim (word for word) transcription of the proceeding at no cost to the parent; and
* To receive a written copy of the findings of facts and decisions at no cost to the parent.

An impartial due process hearing shall be carried out at a time and place that is reasonably convenient to the parents.

The lead agency shall ensure that no later than 30 days after the receipt of a parent’s due process request, the impartial due process hearing is completed, and a written decision is mailed to each of the parties. The hearing officer may grant specific extensions of time beyond the 30-day period at the request of either party.

Any party not satisfied by the findings and decision of the impartial due process hearing has the right to bring a civil action in State or federal court.

During the pendency (time period) of a due process hearing, unless the lead agency and the parent agree otherwise, the child continues to receive the appropriate early intervention services in the setting identified in the current IFSP. If the due process hearing complaint involves decisions related to the initial provision of services under Part C of the IDEA, the child must receive those services that are not in dispute and have been consented to by the parent.

# Section IV: Integrated Monitoring Activities

Annually, the state monitors and reports on all SPP/APR indicators as part of integrated monitoring system. These monitoring activities are inclusive of all children in the system, sampling is not used.

On a cyclical basis, all six service coordination regions and 250+ direct service providers entities are monitored on additional state-determined indicators of compliance and results.

Service Coordination Regions:
The state monitors one service coordination region each year of the six-year cycle via a desk audit. The monitoring event takes place in the spring of each year via a desk audit. Regional selection is based upon 1) fidelity of implementation of evidence-based practice, 2) number of children served, 3) concerns that have been received by the state office, 4) fiscal issues, and 5) state capacity. Upon selection, a formal letter is sent from the state office to the service coordination region’s leadership indicating their selection and the date the monitoring event will take place. A conference call is held between the regional leadership and the state monitoring team lead to discuss monitoring activities and answer questions. One week prior to the monitoring activity the region receives another letter with a list of child names and subsequent documentation that must be uploaded into a secure platform and the date by which all documentation must be uploaded. The state gives approximately 5 working days for items to be uploaded.

Direct Service Provider Entities:
The 250+ direct service provider entities will be assigned to six cohorts, approximately 40 direct service provider entities will be monitored each year of the six-year cycle. Selection of entities for each year are based upon 1) fidelity of implementation of evidence-based practice, 2) number of children being served, 3) concerns received by the state office, 4) fiscal matters, and 5) state capacity. Upon selection, a formal letter is sent to the direct service provider entity’s leadership indicating their selection and the date the monitoring event will take place. Providers are given the option for a conference call with the state office prior to the monitoring event. One week prior to the monitoring event, provider leadership receives a letter indicating the child records that will be reviewed. Providers are instructed to upload all requested documentation into a secure platform by the indicated date. The state gives approximately five working days for items to be uploaded.

In addition, whenever the state identifies a potential area of concern with a particular EI program (service coordination region and/or direct service provider entity), a targeted, focused monitoring activity is conducted. Findings resulting from these monitoring activities are issued as necessary.

On a cyclical basis, all six service coordination regions and 250+ direct service provider entities, including 148 public school districts, are monitored.

Service Coordination Regions:
Upon selection, a formal letter is sent from the state office to the service coordination region’s leadership indicating their selection and the date the monitoring event will take place. A conference call is held between the regional leadership and the state monitoring team lead to discuss monitoring activities and answer questions. One week prior to the monitoring activity the region receives another letter with a list of child names and subsequent documentation that must be uploaded into a secure platform and the date by which all documentation must be uploaded. The state gives approximately 5 working days for items to be uploaded.

Child records are selected by the state team, the regional program has no prior knowledge of which files will be selected. The amount of data reviewed is sufficient to reach a sound conclusion about performance. The State has determined the number of child records selected is dependent upon the size of the regional program and geographic location. The State has determined that ten percent of child records are monitored, with a maximum of 25 files and a minimum of 5 files. Race/ethnicity, socioeconomic, gender, age and eligibility category in comparison to the service coordination region population are considered when selecting child records. The State selects active child records, but also requests records for children who were not found eligible or have exited the program. These additional records are selected based upon the requirement being monitored.

Direct Service Provider Entities:
Upon selection, a formal letter is sent to the direct service provider entity’s leadership indicating their selection and the date the monitoring event will take place. Providers are given the option for a conference call with the state office prior to the monitoring event. One week prior to the monitoring event, provider leadership receives a letter indicating the child records that will be reviewed. Providers are instructed to upload all requested documentation into a secure platform by the indicated date. The state gives approximately five working days for items to be uploaded.

Child records are selected by the state team, the direct service provider program has no prior knowledge of which files will be selected. The amount of data reviewed is sufficient to reach a sound conclusion about performance. The State has determined the number of child records selected is dependent upon the number of children served and the geographic location. The State has determined that ten percent of child records are monitored, with a maximum of 25 files. Providers who serve ten or fewer children will have all their child records reviewed. Race/ethnicity, gender, age and socioeconomic in comparison to the providers caseload will be considered when selecting child records. The State selects active child records but may request additional records based upon the requirement being monitored.

For the annual monitoring of SPP/APR indicators, the state uses data from the second quarter of the Federal Fiscal year for indicators 1, 7 and 8. A full fiscal year of data is used for all other indicators.

For cyclical and targeted monitoring activities, the timeframe is determined based upon the dates of the monitoring, priority areas being monitored, the children and EI activities being reviewed.

# Section V: Response to Areas of Concern

South Dakota issues finding by EI program (service coordination region or direct service provider entity) not by instances of noncompliance. When noncompliance is identified, the state Birth to Three program provides an opportunity for the program to correct noncompliance prior to the finding being issued (see below pre-finding correction). If, however, correction is not verified, or the noncompliance is systemic a written finding is issued to the EI program.

The state Birth to Three program issues a written letter of finding to the EI program of any items of noncompliance identified and not corrected through pre-finding correction. The written finding is issued, generally within three months of conclusion there has been a violation of IDEA. The written finding includes a description of IDEA noncompliance; the statutory or regulatory IDEA requirements with which the program or provider is in noncompliance; a description of the quantitative and/or qualitative data; a statement that the noncompliance must be corrected as soon as possible; and in no case later than one year of the state written notification of noncompliance; any required correction action(s); and a timeline for submission of a correction action plan or evidence of correction.

In accordance with federal guidance, the state Birth to Three program allows pre-finding correction.

When noncompliance is identified, the state allows the opportunity for the program to verify correction by reviewing subsequent data from the state’s data base. Subsequent data must demonstrate the EI program is correctly implementing the IDEA requirement with 100% compliance for the requirement. In addition, each individual case of child specific noncompliance must be verified as corrected, unless the child has moved from the region and no outstanding correction action exists under a complaint or due process hearing for the child.

If these conditions are met timely, less than three months after the noncompliance was identified, South Dakota does not issue a finding and documents the pre-finding correction. The state issues a letter to the EI program advising them of the non-compliance and the use of the pre-finding process.

If the subsequent data reflects performance of less than 100%, a finding of noncompliance is issued.

# Section VI: Identification and Correction of Noncompliance

South Dakota Birth to Three uses a variety of responses to improve and sustain correction and results. When an instance of noncompliance is identified, the state issues a finding of non-compliance and works with the entity to ensure and verify correction of the noncompliance according to federal requirements. South Dakota Birth to Three uses “pre-finding correction” when both federal requirements for verifying correction are met prior to issuing a finding.

Correction of non-compliance is required as soon as possible, but no later than one year.

A corrective action plan (CAP) may be required as part of the finding, depending on the scope and level of noncompliance. A CAP for compliance is developed involving the regional service coordinators and others (e.g., early intervention providers, school districts, etc.). State Birth to Three staff approve the corrective action plan and provide technical assistance, assuring all activities are completed in accordance with federal requirements.

When verifying correction of noncompliance through a review of subsequent data, the state has determined the number of records are based upon the amount of noncompliance being addressed. If the noncompliance was found related to one child, then the state reviews subsequent records on three additional children being seen by the service coordinator or EI provider. If the noncompliance was found related to more than one child, the state reviews subsequent records on three additional children for each service coordinator or EI provider with the noncompliance. If the same service coordinator or EI provider has more than one instance or noncompliance, the state will review six additional records of children served by that individual.

If a regional program or provider does not correct the noncompliance within one year, the state uses the additional sanctions as identified in writing to the agency. The content of the letter would include the following information:
1. Failure to voluntarily correct an identified deficiency constitutes a failure to administer the program in compliance with federal law.
2. The action the Part C Program / State Department of Education intends to take in order to enforce compliance with the state and federal law.
3. The right to a hearing prior to Part C exercise of its enforcement; and
4. The consequences of the Part C enforcement action on continued and future state and federal funding.

South Dakota enforces a range of sanctions for noncompliance, including the potential termination of contracts. If noncompliance is not corrected within one year, the state may require the entity to provide additional data and participate in mandated technical assistance. Additionally, the state may delay reimbursements or require refunds for monetary discrepancies. The state may also delay the referral of new children or pause services for existing children. Finally, as specified in the annual contracts, the state has the authority to terminate the agreement, prevent the entity from future contracts with the program and lead agency, and restrict contracts with other state agencies.

# Section VII: Annual Determinations

Each year, following the receipt of the state’s determination from the federal Office of Special Education Programs (OSEP), Birth to Three issues regional determinations to the six service coordination programs. The state uses the regional performance data from the Annual Performance Report and other data to make determinations about how the region is meeting the requirements of IDEA. Possible determinations include Meets Requirements, Needs Assistance, Needs Intervention or Needs Substantial Intervention in implementing Part C of the IDEA.

These annual determinations are required by Section 616 of the IDEA and are based on a variety of data. The state reviews each regional program’s performance against compliance and results indicators, timely correction of noncompliance, submission of valid, reliable, and timely data, and audit findings.

The state prepares a Determination Matrix for each region. Points are awarded to the region for each of the above items based on their performance. These points result in a total score which is applied towards state established criteria for each of the four determination categories.

Regions are provided a letter with their determination status and a copy of their matrix. If applicable, the letter includes requirements for taking appropriate enforcement action and timelines. Regional determinations are not made public.