

**Chapter 110-400 WAC**  
**EARLY SUPPORT FOR INFANTS AND TODDLERS PROGRAM**  
(Formerly: Chapter 170-400 WAC)

Last Update: 10/11/19

**WAC**

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**WAC 110-400-0001 Authority.** RCW 43.216.020 establishes the department of children, youth, and families (DCYF) as the state lead agency for Part C of the federal Individuals with Disabilities Education Act (IDEA). RCW 43.216.020 also requires that DCYF develop and adopt rules that establish minimum requirements for the services offered through IDEA Part C programs, including allowable allocations and expenditures for transition into IDEA Part C. Federal authority for this chapter is 20 U.S.C. Sec. 1431-1444 and the Part C regulations in 34 C.F.R. Part 303, and DCYF is the state lead agency for receipt of federal funds for early intervention services. DCYF's responsibilities include, but are not limited to, coordination of all funding and oversight of state and federal funding allocated to implement early intervention services.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0001, filed 10/11/19, effective 11/11/19. WSR 18-14-078, recodified as § 110-400-0001, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0001, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0010 Purpose.** This chapter, in conjunction with state and federal law and federally approved policies and procedures, establishes the requirements of the statewide early support for infants and toddlers program. This chapter describes the process for administering state and federal early intervention funds, reflects the department's commitment to quality early learning opportunities for infants and toddlers with disabilities and their families, and ensures the implementation of 20 U.S.C. Sec. 1431-1444 and 34 C.F.R. Part 303.

[WSR 18-14-078, recodified as § 110-400-0010, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0010, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0020 Applicability.** (1) Pursuant to RCW 43.216.020 and 28A.155.065, this chapter applies to all early intervention providers, including school districts, involved in early intervention service provision for children receiving services from the early support for infants and toddlers program, whether or not the agency receives state or federal funds.

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

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0020, filed 10/11/19, effective 11/11/19. WSR 18-14-078, re-coded as § 110-400-0020, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0020, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0030 Definitions. "Administrative indirect expenses"** means indirect costs such as, general management compensation, joint facility costs, contract administration, fiscal services, and general office supplies that are not allocated to direct services for infants, toddlers, and their families.

**"Department"** or **"DCYF"** means the department of children, youth, and families, the Washington state lead agency designated by the governor to receive state and federal funds to administer the early support for infants and toddlers (ESIT) program.

**"Department-approved clarification memos"** means the ESIT program published guides and policy memos signed by the ESIT administrator.

**"Early intervention services"** or **"EIS"** means developmental services that include:

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

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

**"EIS provider agency"** means any ESIT-approved organization including, but not limited to, a public, private, tribal or nonprofit entity, including a school district, that provides EIS, whether or not it receives funding from the ESIT program.

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

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

**"Part B"** means special education of children with disabilities under the Individuals with Disabilities Education Act (IDEA), Part B, as amended, 20 U.S.C. Sec. 1411-1419.

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

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

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

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

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

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0030, filed 10/11/19, effective 11/11/19. WSR 18-14-078, re-codified as § 110-400-0030, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0030, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0050 EIS provider agencies.** EIS provider agencies must:

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

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0050, filed 10/11/19, effective 11/11/19. WSR 18-14-078, re-codified as § 110-400-0050, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0050, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0070 Child find and referral.** (1) EIS provider agencies must comply with state and federal law requirements regarding child find and referral.

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

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0070, filed 10/11/19, effective 11/11/19. WSR 18-14-078, re-codified as § 110-400-0070, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0070, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0100 Natural environments.** (1) EIS provider agencies must comply with state and federal law requirements regarding natural environments.

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

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

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0100, filed 10/11/19, effective 11/11/19. WSR 18-14-078, recodified as § 110-400-0100, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0100, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0130 System of payments and fees.** EIS provider agencies must follow the system of payments and fees set forth in state and federal law, policies, and procedures and department-approved clarification memos.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0130, filed 10/11/19, effective 11/11/19. WSR 18-14-078, recodified as § 110-400-0130, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0130, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0140 Use of funds.** (1) EIS provider agencies must comply with the use of funds guidance and requirements as set forth in state and federal law.

(2) State and federal funds for the ESIT program may only be expended for ESIT required activities as described in state and federal law.

(3) Administrative indirect expenses must be limited to no more than ten percent of the total public moneys received by an EIS provider agency providing Part C required components or direct services.

(4) Administrative indirect expenses must be limited to no more than five percent of the total public moneys received by an EIS provider agency acting as a pass through for state or federal funding.

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

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

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

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

(a) The determination of potential eligibility for Part B prior to referral to Part B.

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

(i) Discussions with parents and training, as appropriate, regarding future placements and other matters related to the child's transition; and

(ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting.

(c) Facilitation and participation in the transition conference.

(d) Sharing of information, with parental consent.

(e) Attending the eligibility and IEP meeting, upon parental request.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0140, filed 10/11/19, effective 11/11/19. WSR 18-14-078, redefined as § 110-400-0140, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0140, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0150 Contracting and local agreements.** EIS provider agencies providing ESIT services must comply with contractual provisions from the department, and contracts and local agreements approved by ESIT local lead agencies.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0150, filed 10/11/19, effective 11/11/19. WSR 18-14-078, redefined as § 110-400-0150, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0150, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0160 Data collection and reporting.** EIS provider agencies must enter required data elements in the ESIT data management system and report on ESIT activities as required by contract or local agreement.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0160, filed 10/11/19, effective 11/11/19. WSR 18-14-078, redefined as § 110-400-0160, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0160, filed 12/2/16, effective 1/2/17.]

**WAC 110-400-0170 General supervision, monitoring, and enforcement.** All EIS provider agencies are subject to general supervision, monitoring, and enforcement actions through ESIT and ESIT's local lead agencies set forth in state and federal law, contracts, and local agreements.

[Statutory Authority: RCW 43.216.020 (1)(g). WSR 19-21-060, § 110-400-0170, filed 10/11/19, effective 11/11/19. WSR 18-14-078, redefined as § 110-400-0170, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 43.215.020 (2)(f). WSR 16-24-059, § 170-400-0170, filed 12/2/16, effective 1/2/17.]