

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

- a. Board Executive Director
- b. Regular Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

AG Initial Review

Initial Board Reading

AG 2nd Review

Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

- Number
- X Amended Rules
- New Rules
- Repealed Rules
- Reviewed Rules

What month is being requested for this rule to first go before the State Board?	February
---	----------

What date is being requested for this rule to be effective?	May 1, 2022
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ **Date:** _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates:	1st Board _____	2nd Board _____	Effective Date _____
------------------	-----------------	-----------------	----------------------

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

The Early Intervention Part C program has the opportunity to secure additional federal Part C funding to offer extended Part C services to children with a May 1 or later birthdate. This will allow children who previously would have had a gap in special education services over the summer months until the beginning of the school year in the fall to receive Part C services until the next school year begins.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- to comply with state/federal law and/or
 to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
27-10.5-703 (2) & (3)(b), C.R.S.	Early intervention services – administration – duties of department
34 CFR §303.211	State option to make services under this part [Part C] available to children ages three (3) and older

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Families with children who have birthdates May 1 and later (summer) will have the option to choose extended Part C services for their children so there will not be a gap in special education between exiting Part C and beginning Part B preschool special education services. There should be no adverse impact.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

This rule-making will have a positive long-term benefit for children who would have previously gone without services for up to 3 months prior to their preschool beginning, ensuring that these children are ready for school when it begins. Up to 2,500 children would be eligible for this option, however, it is expected that approximately 50% (1,250) of the families will choose this option.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because..."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

County Fiscal Impact

Federal Fiscal Impact

Up to and additional \$8 M may be accessed through the federal Part C grant to fund additional direct services, service coordination and any needed start-up costs to implement this new option over a 2 year period of time. Additional funding will be accessed annually during the Part C grant application process.

Other Fiscal Impact (such as providers, local governments, etc.)

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

Guidance from the federal Office of Special Education Programs (OSEP) has been accessed in developing these rules.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

No alternative because rules needed to be amended to allow for the serving of children older than age 3 in the early intervention Part C program.

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #:

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	<i>Incorrect Statutory Reference</i>	<i>Section 26.5.103 C.R.S.</i>	<i>Section 26.5-101(3) C.R.S.</i>		
7.970	Update language throughout Section	A. The service coordinator shall, prior to notifying the special education Administrative Unit in which a child who is potentially eligible for preschool special education services resides and the Department of Education, inform the parent of the opt-out policy, as defined in Section 7.970, B. 1. If a parent chooses to opt out of having his or her child's information sent to the Administrative Unit and the Department of Education for notification, the following shall occur: a. The state form shall be completed to indicate that the parent has signed a written request to withhold notification and is submitted by the parent to the Community Centered Board within ten (10) calendar days of the date delineated on the form; and, b. The state form shall become part of the child's record. 2. A parent may revoke his or her choice to opt out at any time by providing written notice to the Community Centered Board	A. The service coordinator shall, prior to notifying the special education Administrative Unit in which a child who is potentially eligible for preschool special education services resides and the Department of Education, inform the parent of the opt-out policy, as defined in Section 7.970, B. 1. If a parent chooses to opt out of having his or her child's information sent to the Administrative Unit and the Department of Education for notification, the following shall occur: a. The state form shall be completed to indicate that the parent has signed a written request to withhold notification and is submitted by the parent to the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER within ten (10) calendar days of the date delineated on the form; and, b. The state form shall become part of the child's record. 2. A parent may revoke his or her choice to opt out at any time by providing written notice to the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER		
7.970	Update language throughout Section	D. A Community Centered Board-service coordinator shall notify, using the state form, the administrative unit of a child who is potentially eligible, unless a parent has signed the opt-out policy statement. The following information will be provided: 1. For a child who is potentially eligible and whose parent has not chosen to opt out of notification to the administrative unit, the child's first, middle and	G. A Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall notify, using the state form, the administrative unit of a child who is potentially eligible, unless a parent has signed		

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #:

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

		<p>last name, date of birth, parent contact information including name(s), address(es) and telephone number(s), will be provided:</p> <p>a. Not fewer than ninety (90) days and not more than nine (9) months prior to the child's third (3rd) birthday for any child with an active Individualized Family Service Plan; or,</p> <p>b. As soon as possible for a child determined eligible fewer than ninety (90) days and more than forty-five (45) days prior to the child's third (3rd) birthday.</p> <p>2. If a child is referred to the Community Centered Board-fewer than forty-five (45) days prior to the child's third (3rd) birthday and the child may be eligible for preschool special education services, the Community Centered Board, with written parental consent, shall refer the child to the administrative unit in which the child resides.</p> <p>E. A Community Centered Board service coordinator shall provide the administrative unit, with written parental consent, current information for a child who is potentially eligible regarding the child's early intervention services, including assessment information, and a copy of the most current Individualized Family Service Plan.</p> <p>F. A Community Centered Board service coordinator shall establish a transition plan within an Individualized Family Service Plan to support a smooth transition:</p>	<p>the opt-out policy statement. The following information will be provided:</p> <p>a. For a child who is potentially eligible and whose parent has not chosen to opt out of notification to the administrative unit, the child's first, middle and last name, date of birth, parent contact information including name(s), address(es) and telephone number(s), will be provided: Not fewer than ninety (90) days and not more than nine (9) months prior to the child's third (3rd) birthday for any child with an active Individualized Family Service Plan; or, As soon as possible for a child determined eligible fewer than ninety (90) days and more than forty-five (45) days prior to the child's third (3rd) birthday.</p> <p>b. If a child is referred to the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER fewer than forty-five (45) days prior to the child's third (3rd) birthday and the child may be eligible for preschool special education services, the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER, with written parental consent, shall refer the child to the administrative unit in which the child resides.</p> <p>E. A Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall provide the administrative unit, with written parental consent, current information for a child who is potentially eligible regarding the child's early intervention services, including assessment information, and a copy of the most current Individualized Family Service Plan.</p> <p>F. A Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall establish a transition plan within an Individualized Family Service Plan to support a smooth transition:</p>		
--	--	--	---	--	--

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #:

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

7.970	Update language throughout Section	<p>2. A description of transition steps includes:</p> <p>a. As appropriate, how the child and his or her family will exit from early intervention services; and,</p> <p>b. How a parent shall be informed of and included in the transition process, including a review of the future placements and the program options for the child from the child's third (3rd) birthday through the remainder of the school year; and,</p> <p>c. Confirmation by the Community Centered Board that the basic personally identifiable information, defined in Section 7.970, D,1, has been transmitted to the administrative unit; and,</p>	<p>2. A description of transition steps includes:</p> <p>a. As appropriate, how the child and his or her family will exit from early intervention services; and,</p> <p>b. How a parent shall be informed of and included in the transition process, including a review of the future placements and the program options for the child from the child's third (3rd) birthday through the remainder of the school year; and,</p> <p>c. Confirmation by the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER that the basic personally identifiable information, defined in Section 7.970, D,1, has been transmitted to the administrative unit; and,</p>		
7.970	Update language throughout Section	<p>2. In the event that a representative of the administrative unit does not attend the transition conference for a child who is potentially eligible, the Community Centered Board—service coordinator shall conduct a transition conference as scheduled.</p> <p>3. A Community Centered Board—service coordinator shall make reasonable efforts to convene a transition conference for a child who is not potentially eligible for preschool special education services to discuss appropriate services that the child may receive, with the documented verbal or written approval of the parent. The following participants shall attend the conference:</p> <p>a. Parent of a child who is approaching three (3) years of age; and,</p> <p>b. Service coordinator; and,</p> <p>c. Providers of other appropriate services.</p> <p>I. If the transition conference is held in combination with the Individualized Family Service Plan meeting to develop the transition plan, the requirements of Sections 7.970, F through H, shall</p>	<p>2. In the event that a representative of the administrative unit does not attend the transition conference for a child who is potentially eligible, the Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall conduct a transition conference as scheduled.</p> <p>3. A Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall make reasonable efforts to convene a transition conference for a child who is not potentially eligible for preschool special education services to discuss appropriate services that the child may receive, with the documented verbal or written approval of the parent. The following participants shall attend the conference:</p> <p>a. Parent of a child who is approaching three (3) years of age; and,</p> <p>b. Service coordinator; and,</p> <p>c. Providers of other appropriate services.</p> <p>I. If the transition conference is held in combination with the Individualized Family Service Plan meeting to develop the transition plan, the requirements of</p>		

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #:

Office, Division, & Program: Office of Early Childhood, Division of Community and Family Support, Early Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

		be met. J. A Community Centered Board shall terminate early intervention services for a child whose parent elects to begin idea Part B preschool special education services provided through an individualized education program prior to the child's third (3 rd) birthday in lieu of receiving IDEA Part C early intervention services	Sections 7.970, F through H, shall be met. J. A Community Centered Board CERTIFIED EARLY INTERVENTION SERVICE BROKER shall terminate early intervention services for a child whose parent elects to begin idea Part B preschool special education services provided through an individualized education program prior to the child's third (3 rd) birthday in lieu of receiving IDEA Part C early intervention services		
	Addition of extended Part C option procedures in rule	N/A	K. EXTENDED PART C OPTION c. THE EXTENDED PART C OPTION APPLIES TO CHILDREN WHO: ARE ENROLLED IN EARLY INTERVENTION PART C AND ARE RECEIVING EARLY INTERVENTION SERVICES; AND, ARE ELIGIBLE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES UNDER SECTION 619 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT; AND, TURN AGE THREE (3) ON OR AFTER MAY 1 OF EACH YEAR THROUGH THE START OF THEIR SCHOOL YEAR AFTER THE CHILD'S THIRD (3 RD) BIRTHDAY. AS FUNDS ARE AVAILABLE THE ELIGIBLE BIRTH DATE MAY BE RECONSIDERED ON AN ANNUAL BASIS. d. THE REQUIREMENTS UNDER IDEA 20 USC 1412 SECTIONS 612 (STATE ELIGIBILITY), 616 (MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT), 618 (PROGRAM INFORMATION), 632 (DEFINITIONS) AND 635 (REQUIREMENTS FOR STATEWIDE SYSTEM) AS WELL AS 34 CFR §303.209 (TRANSITION TO PRESCHOOL AND OTHER PROGRAMS), §303.211 (STATE OPTION TO MAKE SERVICES UNDER THIS PART AVAILABLE TO CHILDREN AGES THREE (3) AND OLDER), §§303.340-344 (INDIVIDUALIZED FAMILY SERVICE PLAN), WILL REMAIN IN EFFECT FOR ALL CHILDREN OVER AGE THREE (3) WHEN A PARENT CONSENTS TO THE EXTENDED PART C OPTION. THE RIGHT OF ANY CHILD TO RECEIVE A FREE APPROPRIATE PUBLIC		

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

			<p>EDUCATION UNDER PART B IS NOT AFFECTED BY THIS POLICY.</p> <p>e. ALL EARLY INTERVENTION SERVICES OUTLINED IN THE CHILD'S INDIVIDUALIZED FAMILY SERVICE PLAN WILL CONTINUE WHILE ANY ELIGIBILITY DETERMINATION IS BEING MADE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES. COLORADO PART C HAS NOT ADOPTED PART B PROCEDURAL SAFEGUARDS. THIS MEANS THAT DURING TRANSITION PLANNING AND THE EXTENDED PART C OPTION, BOTH PART C PROCEDURAL SAFEGUARDS (20 USC 1412 SECTION 639) AND PART B PROCEDURAL SAFEGUARDS (SECTION 615) WILL BE AVAILABLE TO FAMILIES.</p> <p>f. IN ADDITION TO THE WRITTEN INFORMATION AND A VERBAL EXPLANATION OF THE PROCEDURAL SAFEGUARDS WHICH IS PROVIDED IN ACCORDANCE WITH SECTION 7.980 (PROCEDURAL SAFEGUARDS), AT THE TRANSITION CONFERENCE, NO LATER THAN 90 DAYS BEFORE AGE THREE (3), PARENTS OF CHILDREN POTENTIALLY ELIGIBLE FOR THE EXTENDED PART C OPTION WILL RECEIVE A WRITTEN EXPLANATION OF:</p> <p>THE RIGHTS OF PARENTS TO ELECT TO RECEIVE EARLY INTERVENTION SERVICES PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 OR UNDER PART B; AND,</p> <p>THE DIFFERENCES BETWEEN THE SUPPORTS PROVIDED PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 AND SERVICES PROVIDED UNDER PART B, INCLUDING: (1) TYPES OF SERVICES AND THE LOCATIONS AT WHICH THE SERVICES ARE PROVIDED; (2) APPLICABLE PROCEDURAL SAFEGUARDS; AND (3) POSSIBLE COSTS, IF ANY, TO PARENTS OF CHILDREN ELIGIBLE UNDER PART C (INCLUDING ANY FEES TO BE CHARGED TO FAMILIES AS DESCRIBED IN SECTION 632(4)(B)), 34 CFR §§303.209(F)(2).</p>		
--	--	--	--	--	--

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

			<p>g. FAMILIES WHO CONSENT TO INCLUDING A REPRESENTATIVE OF THEIR ADMINISTRATIVE UNIT IN THEIR TRANSITION PLANNING WILL BE PROVIDED A COPY OF THE PROCEDURAL SAFEGUARDS RELEVANT TO PART B PRESCHOOL SPECIAL EDUCATION SERVICES FROM THEIR ADMINISTRATIVE UNIT.</p> <p>h. THE EXTENDED PART C OPTION PROVIDED FOR FAMILIES WITH CHILDREN OVER AGE THREE (3) SHALL BE FUNDED USING THE FOLLOWING: PRIVATE AND PUBLIC INSURANCE, AS AVAILABLE, AND IDEA PART C FUNDS.</p> <p>i. FOR CHILDREN DETERMINED TO BE ELIGIBLE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES, AN INDIVIDUALIZED EDUCATION PLAN WILL BE DEVELOPED SO THAT FREE AND APPROPRIATE PUBLIC EDUCATION UNDER PART B MAY BE AVAILABLE AT AGE THREE (3).</p> <p>j. BEFORE A CHILD REACHES THREE (3) YEARS OF AGE, A PARENT WILL PROVIDE SIGNED INFORMED WRITTEN CONSENT AS TO WHETHER THEY INTEND TO CHOOSE THE CONTINUATION OF EARLY INTERVENTION PART C SERVICES PURSUANT TO SECTIONS 635 (C) AND 34 CFR 303.211.</p> <p>USING A FORM DETERMINED BY THE DEPARTMENT OF EDUCATION, THE PARENT WILL INDICATE TO THEIR ADMINISTRATIVE UNIT WHETHER OR NOT THEY CONSENT TO THE INITIAL PROVISION OF SPECIAL EDUCATION SERVICES AS WRITTEN IN THE INDIVIDUALIZED EDUCATION PLAN.</p> <p>PARENTS WHO DO NOT CONSENT TO 8 A. MAY ELECT TO DELAY THE IMPLEMENTATION OF THEIR INDIVIDUALIZED EDUCATION PLAN AND CHOOSE TO CONTINUE THE EARLY INTERVENTION PART C SERVICES IN THEIR INDIVIDUALIZED FAMILY SERVICE PLAN UNTIL THE START OF THE SCHOOL YEAR FOLLOWING THEIR CHILD'S THIRD</p>		
--	--	--	--	--	--

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail:

			<p>BIRTHDAY. PARENTS CHOOSING TO CONTINUE EARLY INTERVENTION PART C SERVICES WILL PROVIDE TO THEIR LOCAL EARLY INTERVENTION SERVICES PROGRAM THEIR SIGNED INFORMED WRITTEN CONSENT OF THIS DECISION. k. INDIVIDUALIZED FAMILY SERVICE PLAN SERVICES PROVIDED PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 WILL INCLUDE AN EDUCATIONAL COMPONENT THAT PROMOTES SCHOOL READINESS AND INCORPORATES PRE-LITERACY, LANGUAGE AND NUMERACY SKILLS. I. WHEN EARLY INTERVENTION SERVICES ARE PROVIDED IN ACCORDANCE WITH PART C AND 34 CFR 303.211 TO A CHILD WHO IS ELIGIBLE FOR SERVICES UNDER SECTION 619, THE LEA IS NOT REQUIRED TO PROVIDE SUCH CHILD WITH FREE AND APPROPRIATE PUBLIC EDUCATION. [612(A)(1)(C)]</p>		
--	--	--	--	--	--

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

Federal Office of Special Education Programs (OSEP), Colorado Department of Education

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

The following stakeholder groups have been informed of the proposed rule changes and provided the opportunity for public comment, questions and clarification: Community Centered Boards, EI direct service providers, Early Childhood Sub-PAC, PAC, Counties, the Colorado Interagency Coordinating Council and other stakeholders participating in public meetings where this has been discussed. Public Hearings will be conducted in mid-February.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Name of Sub-PAC	Early Childhood		
Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.	Scheduled to present 1/6/22		

PAC

Have these rules been approved by PAC?

Yes No

Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.	Scheduled to present in February 2022		

Other Comments

Title of Proposed Rule: Extended Part C Option

CDHS Tracking #: _____

Office, Division, & Program:
Office of Early Childhood,
Division of Community and
Family Support, Early
Intervention Program

Rule Author: Christy Scott

Phone: 720-595-8903

Christy.scott@state.co.us

E-Mail: _____

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

A stakeholder survey and webinars were held to garner appetite for the implementation of the extended Part C Option. Ninety percent of survey respondents expressed support for this. Additional 30 day public comment will be conducted between January 14, 2022 and February 14, 2022, with two public hearings held in early February.

7.970 TRANSITION STEPS AND SERVICES [Eff. 7/1/13]

- A. The service coordinator shall, prior to notifying the special education Administrative Unit in which a child who is potentially eligible for preschool special education services resides and the Department of Education, inform the parent of the opt-out policy, as defined in Section 7.970, B.
1. If a parent chooses to opt out of having his or her child's information sent to the Administrative Unit and the Department of Education for notification, the following shall occur:
 - a. The state form shall be completed to indicate that the parent has signed a written request to withhold notification and is submitted by the parent to the ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER within ten (10) calendar days of the date delineated on the form; and,
 - b. The state form shall become part of the child's record.
 2. A parent may revoke his or her choice to opt out at any time by providing written notice to the ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER.
- B. For the purpose of transition planning, the opt-out policy refers to the procedural safeguard provided to a parent to prevent, through written request, the transmittal of personally identifiable information about his or her child and family, as defined in Sections 7.901 and 7.970, D, to the Administrative Unit and the Department of Education, at the time that a child is approaching three (3) years of age.
- C. For the purpose of transition planning, a child who is potentially eligible for preschool special education services is defined as a child who is enrolled in early intervention services, and who:
1. Has not met all outcomes on his or her Individualized Family Service Plan; and/or,
 2. Is demonstrating a delay in any developmental domain, based on the expertise of a member of the Individualized Family Service Plan team.
- D. A ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall notify, using the state form, the administrative unit of a child who is potentially eligible, unless a parent has signed the opt-out policy statement. The following information will be provided:
1. For a child who is potentially eligible and whose parent has not chosen to opt out of notification to the administrative unit, the child's first, middle and last name, date of birth, parent contact information including name(s), address(es) and telephone number(s), will be provided:
 - a. Not fewer than ninety (90) days and not more than nine (9) months prior to the child's third (3rd) birthday for any child with an active Individualized Family Service Plan; or,

- d. With parental consent, confirmation of the transmission of additional information needed by the administrative unit to ensure continuity of services from early intervention services to Part B preschool special education services, including a copy of the most recent evaluation and assessments of the child and the family, and the most recent Individualized Family Service Plan; and,
 - e. Procedures to prepare a child for changes in service delivery and strategies to help a child adjust to and function in a new setting; and,
 - f. Any transition services and other activities that the Individualized Family Service Plan team identifies as needed by the child, or his or her family, to support the transition of the child.
- H. With documented verbal or written parental approval, a transition conference shall be convened no later than ninety (90) days and, at the discretion of all participants, no earlier than nine (9) months prior to a child's third (3rd) birthday.
- 1. For a child who is potentially eligible, the participants at a transition conference shall include:
 - a. A parent of a child who is approaching three (3) years of age; and,
 - b. The service coordinator; and,
 - c. Representative(s) from the administrative unit.
 - 2. In the event that a representative of the administrative unit does not attend the transition conference for a child who is potentially eligible, the ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall conduct a transition conference as scheduled.
 - 3. A ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER service coordinator shall make reasonable efforts to convene a transition conference for a child who is not potentially eligible for preschool special education services to discuss appropriate services that the child may receive, with the documented verbal or written approval of the parent. The following participants shall attend the conference:
 - a. Parent of a child who is approaching three (3) years of age; and,
 - b. Service coordinator; and,
 - c. Providers of other appropriate services.
- I. If the transition conference is held in combination with the Individualized Family Service Plan meeting to develop the transition plan, the requirements of Sections 7.970, F through H, shall be met.
- J. A ~~Community Centered Board~~ CERTIFIED EARLY INTERVENTION SERVICE BROKER shall terminate early intervention services for a child whose parent elects to begin idea Part B preschool special education services provided through an individualized education program

prior to the child's third (3rd) birthday in lieu of receiving IDEA Part C early intervention services.

K. EXTENDED PART C OPTION

1. THE EXTENDED PART C OPTION APPLIES TO CHILDREN WHO:
 - a. ARE ENROLLED IN EARLY INTERVENTION PART C AND ARE RECEIVING EARLY INTERVENTION SERVICES; AND,
 - b. ARE ELIGIBLE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES UNDER SECTION 619 OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT; AND,
 - c. TURN AGE THREE (3) ON OR AFTER MAY 1 OF EACH YEAR THROUGH THE START OF THEIR SCHOOL YEAR AFTER THE CHILD'S THIRD (3RD) BIRTHDAY. AS FUNDS ARE AVAILABLE THE ELIGIBLE BIRTH DATE MAY BE RECONSIDERED ON AN ANNUAL BASIS.
2. THE REQUIREMENTS UNDER IDEA 20 USC 1412 SECTIONS 612 (STATE ELIGIBILITY), 616 (MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT), 618 (PROGRAM INFORMATION), 632 (DEFINITIONS) AND 635 (REQUIREMENTS FOR STATEWIDE SYSTEM) AS WELL AS 34 CFR §303.209 (TRANSITION TO PRESCHOOL AND OTHER PROGRAMS), §303.211 (STATE OPTION TO MAKE SERVICES UNDER THIS PART AVAILABLE TO CHILDREN AGES THREE (3) AND OLDER), §§303.340-344 (INDIVIDUALIZED FAMILY SERVICE PLAN), WILL REMAIN IN EFFECT FOR ALL CHILDREN OVER AGE THREE (3) WHEN A PARENT CONSENTS TO THE EXTENDED PART C OPTION. THE RIGHT OF ANY CHILD TO RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION UNDER PART B IS NOT AFFECTED BY THIS POLICY.
3. ALL EARLY INTERVENTION SERVICES OUTLINED IN THE CHILD'S INDIVIDUALIZED FAMILY SERVICE PLAN WILL CONTINUE WHILE ANY ELIGIBILITY DETERMINATION IS BEING MADE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES. COLORADO PART C HAS NOT ADOPTED PART B PROCEDURAL SAFEGUARDS. THIS MEANS THAT DURING TRANSITION PLANNING AND THE EXTENDED PART C OPTION, BOTH PART C PROCEDURAL SAFEGUARDS (20 USC 1412 SECTION 639) AND PART B PROCEDURAL SAFEGUARDS (SECTION 615) WILL BE AVAILABLE TO FAMILIES.
4. IN ADDITION TO THE WRITTEN INFORMATION AND A VERBAL EXPLANATION OF THE PROCEDURAL SAFEGUARDS WHICH IS PROVIDED IN ACCORDANCE WITH SECTION 7.980 (PROCEDURAL SAFEGUARDS), AT THE TRANSITION CONFERENCE, NO LATER THAN 90 DAYS BEFORE AGE THREE (3), PARENTS OF CHILDREN POTENTIALLY ELIGIBLE FOR THE EXTENDED PART C OPTION WILL RECEIVE A WRITTEN EXPLANATION OF:
 - a. THE RIGHTS OF PARENTS TO ELECT TO RECEIVE EARLY INTERVENTION SERVICES PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 OR UNDER PART B; AND,

- b. THE DIFFERENCES BETWEEN THE SUPPORTS PROVIDED PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 AND SERVICES PROVIDED UNDER PART B, INCLUDING: (1) TYPES OF SERVICES AND THE LOCATIONS AT WHICH THE SERVICES ARE PROVIDED; (2) APPLICABLE PROCEDURAL SAFEGUARDS; AND (3) POSSIBLE COSTS, IF ANY, TO PARENTS OF CHILDREN ELIGIBLE UNDER PART C (INCLUDING ANY FEES TO BE CHARGED TO FAMILIES AS DESCRIBED IN SECTION 632(4)(B)), 34 CFR §§303.209(F)(2).
5. FAMILIES WHO CONSENT TO INCLUDING A REPRESENTATIVE OF THEIR ADMINISTRATIVE UNIT IN THEIR TRANSITION PLANNING WILL BE PROVIDED A COPY OF THE PROCEDURAL SAFEGUARDS RELEVANT TO PART B PRESCHOOL SPECIAL EDUCATION SERVICES FROM THEIR ADMINISTRATIVE UNIT.
6. THE EXTENDED PART C OPTION PROVIDED FOR FAMILIES WITH CHILDREN OVER AGE THREE (3) SHALL BE FUNDED USING THE FOLLOWING: PRIVATE AND PUBLIC INSURANCE, AS AVAILABLE, AND IDEA PART C FUNDS.
7. FOR CHILDREN DETERMINED TO BE ELIGIBLE FOR PART B PRESCHOOL SPECIAL EDUCATION SERVICES, AN INDIVIDUALIZED EDUCATION PLAN WILL BE DEVELOPED SO THAT FREE AND APPROPRIATE PUBLIC EDUCATION UNDER PART B MAY BE AVAILABLE AT AGE THREE (3).
8. BEFORE A CHILD REACHES THREE (3) YEARS OF AGE, A PARENT WILL PROVIDE SIGNED INFORMED WRITTEN CONSENT AS TO WHETHER THEY INTEND TO CHOOSE THE CONTINUATION OF EARLY INTERVENTION PART C SERVICES PURSUANT TO SECTIONS 635 (C) AND 34 CFR 303.211.
 - a. USING A FORM DETERMINED BY THE DEPARTMENT OF EDUCATION, THE PARENT WILL INDICATE TO THEIR ADMINISTRATIVE UNIT WHETHER OR NOT THEY CONSENT TO THE INITIAL PROVISION OF SPECIAL EDUCATION SERVICES AS WRITTEN IN THE INDIVIDUALIZED EDUCATION PLAN.
 - b. PARENTS WHO DO NOT CONSENT TO 8 A. MAY ELECT TO DELAY THE IMPLEMENTATION OF THEIR INDIVIDUALIZED EDUCATION PLAN AND CHOOSE TO CONTINUE THE EARLY INTERVENTION PART C SERVICES IN THEIR INDIVIDUALIZED FAMILY SERVICE PLAN UNTIL THE START OF THE SCHOOL YEAR FOLLOWING THEIR CHILD'S THIRD BIRTHDAY.
 - c. PARENTS CHOOSING TO CONTINUE EARLY INTERVENTION PART C SERVICES WILL PROVIDE TO THEIR LOCAL EARLY INTERVENTION SERVICES PROGRAM THEIR SIGNED INFORMED WRITTEN CONSENT OF THIS DECISION.
9. INDIVIDUALIZED FAMILY SERVICE PLAN SERVICES PROVIDED PURSUANT TO SECTION 635(C) AND 34 CFR 303.211 WILL INCLUDE AN EDUCATIONAL COMPONENT THAT PROMOTES SCHOOL READINESS AND INCORPORATES PRE-LITERACY, LANGUAGE AND NUMERACY SKILLS.
10. WHEN EARLY INTERVENTION SERVICES ARE PROVIDED IN ACCORDANCE WITH PART C AND 34 CFR 303.211 TO A CHILD WHO IS ELIGIBLE FOR SERVICES UNDER SECTION 619, THE LEA IS NOT REQUIRED TO PROVIDE

SUCH CHILD WITH FREE AND APPROPRIATE PUBLIC EDUCATION.
[612(A)(1)(C)]

11. CHILDREN SERVED PURSUANT TO THIS SECTION HAVE THE RIGHT, AT ANY TIME, TO RECEIVE FREE AND APPROPRIATE PUBLIC EDUCATION (AS THAT TERM IS DEFINED AT § 303.15) UNDER PART B OF THE ACT INSTEAD OF EARLY INTERVENTION SERVICES UNDER PART C OF THE ACT. FAMILIES MAY EXIT PART C AT ANY TIME BUT THEY MAY ONLY ELECT TO EXIT PART C ONE TIME AFTER THEIR CHILD HAS REACHED AGE THREE (3).
12. THE DEPARTMENT SHALL SUBMIT TO THE SECRETARY OF THE US DEPARTMENT OF EDUCATION, IN THE STATE'S REPORT UNDER SECTION 637(B)(4)(A), A REPORT ON THE NUMBER AND PERCENTAGE OF CHILDREN WITH DISABILITIES WHO ARE ELIGIBLE FOR SERVICES UNDER SECTION 619 BUT WHOSE PARENTS CHOOSE FOR SUCH CHILDREN TO CONTINUE TO RECEIVE EARLY INTERVENTION SERVICES UNDER PART C 635(C)(3) AND 34 CFR 303.211.