

as custody, foster care, guardianship, separation, and divorce.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.406 Record of access.**

Each participating agency must keep a record of parties obtaining access to early intervention records collected, maintained, or used under part C of the Act (except access by parents and authorized representatives and employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the early intervention records.

(Authority: 20 U.S.C. 1417(c), 1435(a)(5), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.407 Records on more than one child.**

If any early intervention record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.408 List of types and locations of information.**

Each participating agency must provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.409 Fees for records.**

(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records, except as provided in paragraph (c) of this section.

(b) A participating agency may not charge a fee to search for or to retrieve information under this part.

(c) A participating agency must provide at no cost to parents, a copy of each evaluation, assessment of the child, family assessment, and IFSP as

soon as possible after each IFSP meeting.

(Authority: 20 U.S.C. 1417(c), 1432(4)(B), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.410 Amendment of records at a parent's request.**

(a) A parent who believes that information in the early intervention records collected, maintained, or used under this part is inaccurate, misleading, or violates the privacy or other rights of the child or parent may request that the participating agency that maintains the information amend the information.

(b) The participating agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

(c) If the participating agency refuses to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under § 303.411.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.411 Opportunity for a hearing.**

The participating agency must, on request, provide parents with the opportunity for a hearing to challenge information in their child's early intervention records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child or parents. A parent may request a due process hearing under the procedures in § 303.430(d)(1) provided that such hearing procedures meet the requirements of the hearing procedures in § 303.413 or may request a hearing directly under the State's procedures in § 303.413 (*i.e.*, procedures that are consistent with the FERPA hearing requirements in 34 CFR 99.22).

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

**§ 303.412 Result of hearing.**

(a) If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading or in violation of the privacy or other rights of the child or parent, it must

### § 303.413

amend the information accordingly and so inform the parent in writing.

(b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or in violation of the privacy or other rights of the child or parent, it must inform the parent of the right to place in the early intervention records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

(c) Any explanation placed in the early intervention records of the child under this section must—

(1) Be maintained by the agency as part of the early intervention records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the early intervention records of the child or the contested portion are disclosed by the agency to any party, the explanation must also be disclosed to the party.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

### § 303.413 Hearing procedures.

A hearing held under § 303.411 must be conducted according to the procedures under 34 CFR 99.22.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

### § 303.414 Consent prior to disclosure or use.

(a) Except as provided in paragraph (b) of this section, prior parental consent must be obtained before personally identifiable information is—

(1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) A lead agency or other participating agency may not disclose personally identifiable information, as defined in § 303.29, to any party except participating agencies (including the lead agency and EIS providers) that are part of the State's part C system with-

### 34 CFR Ch. III (7–1–13 Edition)

out parental consent unless authorized to do so under—

(1) Sections 303.401(d), 303.209(b)(1)(i) and (b)(1)(ii), and 303.211(b)(6)(ii)(A); or

(2) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to part C), which are expressly adopted to apply to part C through this reference. In applying the exceptions in 34 CFR 99.31 to this part, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR part 99 to part C, the reference to—

(i) 34 CFR 99.30 means § 303.414(a);

(ii) “Education records” means early intervention records under § 303.403(b);

(iii) “Educational” means early intervention under this part;

(iv) “Educational agency or institution” means the participating agency under § 303.404(c);

(v) “School officials and officials of another school or school system” means qualified personnel or service coordinators under this part;

(vi) “State and local educational authorities” means the lead agency under § 303.22; and

(vii) “Student” means child under this part.

(c) The lead agency must provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part), provided that those procedures do not override a parent's right to refuse consent under § 303.420.

(Authority: 20 U.S.C. 1417(c), 1439(a)(2), 1439(a)(4), 1442)

### § 303.415 Safeguards.

(a) Each participating agency must protect the confidentiality of personally identifiable information at the collection, maintenance, use, storage, disclosure, and destruction stages.

(b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

(c) All persons collecting or using personally identifiable information