

**DENNIS M. O'BRIEN, MEMBER**

ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1715  
PHONE: (215) 632-5150  
FAX: (215) 560-5904



*House of Representatives*  
**COMMONWEALTH OF PENNSYLVANIA**  
**HARRISBURG**

November 20, 2000

Original: 2122

**COMMITTEES**

HEALTH AND HUMAN SERVICES  
CHAIRMAN  
JUDICIARY  
POLICY

The Honorable Robert Nyce  
Executive Director  
Independent Regulatory Review Commission  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA 17101

RECEIVED  
2000 NOV 21 AM 10:52  
REGULATORY REVIEW COMMISSION

Dear Mr. Nyce:

The Health and Human Services Committee of the House of Representatives held a hearing today to clarify community concerns surrounding the Department of Public Welfare's proposed regulations for early intervention services for infants and toddlers with special needs.

Following are the key points brought out in testimony that are of serious concern:

**Personnel Qualifications and Training:**

Service Coordinator

The qualifications in the proposed regulations are too low considering the duties and responsibilities of this position. An associate's degree and volunteer work is insufficient background and training for this key position.

At minimum, the position should require a bachelor's degree in a related field and demonstrated knowledge and understanding of infant and toddler development, understanding of Part C of the IDEA, understanding of the nature and scope of Pennsylvania's early intervention service system, understanding of Pennsylvania's system of payment for services and knowledge of childhood disabilities, services and family needs.

Early Interventionist

Repeatedly, the comments stated that the role of this position is unclear. It does not exist in Federal law. It overlaps with the role of the service coordinator. If it is to carry out the role of special educator, again the requirements are too low for the same reasons as described for the service coordinator.

## Proposed Early Intervention Regulations

November 20, 2000

Page 2

Special Training for low incidence is not required in the proposed regulations. Early interventions professionals who work with children with these special disabilities (eg deaf, blind) need specific, appropriate training to address the needs of these children.

### Annual Training

The requirements are not clear. It is important to clarify 24-hour training requirement and what it includes.

The requirement for 6 credit hours of annual training is excessive for professionals who already have a bachelors or masters degree. It becomes costly to the provider and the employee.

It is an appropriate requirement for non-degreed people who are grandfathered into the early intervention field.

### **Screening and Assessment**

The screening process needs to be clearly defined and consistent across the state. In some counties, it is a specific tool used to gather information, in other counties it consists of a telephone call to the family. Screening should never be used as the sole determinant for eligibility determination. Parents should be informed in writing of right to request MDE no matter what results of screening.

### **MDE Process**

We recommend that the independent screening process be an option for counties rather than a requirement. This requirement places undue burden on those counties who do not have a large number of available providers to conduct independent evaluations and provide services as well.

To make the evaluation process truly multidisciplinary, we recommend two professionals in addition to service coordinator, one of which is related to the child's perceived disability

### **IFSP Process**

Definite timelines need to be established for implementation of IFSP. The ideal is 14 days after completion of the MDE process. It is critical that a representative from the county be present at the IFSP meeting who can commit county resources to the services determined by the team.

The decision making power of IFSP team should be respected as final. The service coordinator should not be final arbiter of IFSP. Parents need to be informed of their right to invite others to the IFSP meeting.

### **Conflict resolution**

Parents are unaware of this process, their rights, and how to file a complaint

The regulations do not give information about the process that should occur and there is confusion between local conflict resolution process and State mediation

**Transition**

Pendency of services between DPW and PDE programs is vital. We recommend inclusion of BEC language on transition into the proposed regulations.

**Natural Environments**

The environment for services must be based on child's needs, not blanket requirement for all children. The proposed regulations should include new language from OSEP.

**Fiscal**

Parents should not be required to apply for MA, services should not be delayed while securing funds. Clarify funds and exhaustion of funds before other funding streams tapped

**Foster/Surrogate parents**

Clarify that no employee of a public/private foster care agency can be considered a "parent"  
Foster parents should be considered parents if natural parents have had rights terminated.  
Foster parents should be able to serve as surrogate parents if all requirements for surrogate are met. Restore 1997 draft authorizing county program to appoint surrogate parent at the request of the parent.

Thank you for your consideration of these issues.

Sincerely,  
**Members of the House Health and  
Human Services Committee**

DMO'B:ELY:mp

cc: Mel Knowlton, Dept. of Public Welfare

**DENNIS M. O'BRIEN, MEMBER**  
ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1713  
PHONE: (215) 637-5150  
FAX: (215) 560-5904



*House of Representatives*  
**COMMONWEALTH OF PENNSYLVANIA**  
**HARRISBURG**

**November 16, 2000**

Original: 2122

**TO: Robert Nyce**

**TELECOPY NUMBER: 783-2664**

**NUMBER OF PAGES, INCLUDING COVER SHEET: 10**

**MESSAGE:**

**FROM: Maryanne Pelletier, Administrative Assistant  
Rep. O'Brien's Harrisburg Office  
(717) 787-5689  
(717)787-1339 FAX**

**COMMITTEES**

**HEALTH AND HUMAN SERVICES  
CHAIRMAN  
JUDICIARY  
POLICY**

**RECEIVED**  
**2000 NOV 16 PM 4:30**  
**COMMISSION FOR**  
**REVIEW**

DENNIS M. O'BRIEN, MEMBER  
ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1715  
PHONE: (215) 632-5150  
FAX: (215) 560-5904



*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

October 30, 2000

Original: 21221

Dept. of Public Welfare  
Mel Knowlton  
Office of Mental Retardation  
Room 401 Health & Welfare Bldg.  
Harrisburg, PA 17105-2675

Dear Mr. Knowlton:

Attached are comments to the proposed regulations for early intervention services that have been prepared by the Early Intervention Stakeholders. The Stakeholders is composed of professionals and parents from across Pennsylvania who have been working together address the issues in early intervention. The names of the Stakeholders who support these comments are attached.

The attached comments are the results of hours of discussion and input from experts (including parental expertise) in the field of early intervention. The Stakeholders group is a diverse group with a broad array of viewpoints. The attached comments reflect the concerns the group has in common. Many members of the group have prepared separate individual comments which reflect other concerns not expressed in the attached document.

I ask the Department and the Independent Regulatory Review Commission to carefully consider these comments. These are the concerns of people from diverse backgrounds and experiences in early intervention services.

Thank you for your time and attention to these concerns.

Sincerely,

*Dennis M. O'Brien*  
DENNIS M. O'BRIEN, Chairman  
Health and Human Services Committee

DMO'B:ELY:mp

cc: Robert Nyce, Executive Director, IRRC

COMMITTEES

HEALTH AND HUMAN SERVICES  
CHAIRMAN  
JUDICIARY  
POLICY

RECEIVED  
2000 NOV 16 PM 4:31  
REGULATORY  
REVIEW COMMISSION

**Early Intervention Stakeholders**

**Herman Axelrod  
Executive Director  
Green Tree School  
Philadelphia, PA**

**Barb Brown  
Parent  
Harrisburg, PA**

**Fred Chovan  
Psychologist  
Erie, PA**

**Ginny Duncan  
Parent Education Network  
York, PA**

**Joe Fischgrund, Headmaster  
The PA School for the Deaf  
Philadelphia, PA**

**Joe Getz  
Director  
Pinnacle Health Infant Development Program  
Harrisburg, Pa**

**Rosemary Karabinos  
SPIN, Inc  
Philadelphia, PA**

**Ruth Landsman  
Parents Exchange  
Philadelphia, Pa**

**Trina Losinno  
SPIN, Inc  
Philadelphia, Pa**

**James McKittrick  
Cerebral Palsy of Chester County  
Exton, PA**

**Michele Myers-Cepika  
Alliance for Infants and Toddlers  
Pittsburgh, PA**

**Deb Neifert  
Assistant Director  
MH/MR Program Administrators of PA  
Stroudsburg, PA**

**Carolyn Peters  
Administrator  
Early Intervention Providers Association  
Manheim, PA**

**Jane Pilpitch  
Alliance for Infants and Toddlers  
Pittsburgh, PA**

**Bonnie Spangler  
UCP of South Central PA  
York, PA**

**Paul Stengle  
ARC of Montgomery County  
King of Prussia, PA**

**Janet Stotland  
Education Law Center  
Philadelphia, Pa**

**Kelli Thompson  
UCP of the Capital Area  
Camp Hill, PA**

**Nicolette Wagman  
Parent  
Seven Valleys, Pa**

**Elizabeth Wagner-Simmons  
Director, Early Intervention  
Bedford/Somerset MH/MR  
Bedford, PA**

EARLY INTERVENTION STAKEHOLDERS  
Comments on Proposed Early Intervention Regulations

GENERAL PROVISIONS - 4226.5 Definitions

Early intervention services (vi)

Delete the term "early interventionist"

- Refer to our recommendation for 4226.55 - 4226.56.

GENERAL REQUIREMENTS - 4226.21 - 4226.43

4226.32. Contacting Families

We recommend the following revision to this section:

- (a) The legal entity shall contact the families by telephone, in writing or through a face-to-face meeting at the frequency recommended by the MDE team after a child is referred to the tracking system, or until parent requests no further contact by the legal entity.
- (b) The contact shall include review recommendations for referral to the tracking system, the recommendations of the MDE team and the concerns of the parents. The contact shall also offer reevaluation to determine the need and eligibility for early intervention services.
- (c) The legal entity shall document in writing all contact with the family.
  - As part of the process, for those children found to not need early intervention services at the completion of the MDE, the MDE Team has an obligation to recommend the frequency of contact.

4226.36 Preservice Training

We recommend the following change.

- Delete "early interventionist" to read "The service coordinator and other early intervention personnel, including....."
- The term early interventionist is redundant.

We recommend the language in (4) be revised as follows:

- (4) The methods for working with families will be family centered to encourage family involvement.
  - The concept of "family preference" is vague. IDEA supports team recommendations and does not recognize the preference of the family in placement and service decisions.

We recommend that (9) be replaced with the following language.

Preservice training should require a basic orientation for new staff providing early intervention services and address issues relevant to providing early intervention services.

- The requirements under (9) are designed for providers of residential and facility based services and are not relevant to services provided in the natural environment.
- Existing child day care regulations provide for requirements for training in the areas identified in this section. The proposed regulations duplicate or exceeds other current regulations.
- This requirement will add substantial costs to early intervention providers.
- This should not apply to support staff such as clerical and other agency employees who do not provide direct early intervention services to children.

## General Requirements 4226.21 - 4226.43

### 4226.37. Annual Training

We recommend changing the language as follows:

- (a) The service coordinator and other personnel who work directly with the child, including personnel hired through contract, shall have at least 24 hours of real time training annually...

Comment:

- Use of the term early interventionist is redundant.
- This section appears to be designed to make up for the inadequate qualifications of the service coordinator and early interventionist in the proposed regulations.
- We recommend this to be clarified as real time training, not clock hours or CEU.
- The type of training required is vague. It is unclear whether this means CEUs or college credit hours or general inservice training.
- In 4226.56 (b), the requirement for 6 credit hours annual training is inappropriate.
- If this is to mean college credit hours, this will put a burden on employers and employees alike. It could mean requiring a Master's level or licensed employee to continue with unnecessary college credits. It could place an unnecessary financial burden on an employer to pay for college level courses for an employee. It will increase the burden of recruiting and retaining qualified staff.

We recommend adding the proposed language to this section:

- (d) The training requirement for part time and personnel will be prorated based on the actual hours spent providing early intervention services.

- Accommodations must be made for personnel who provide less than full time early intervention services or evaluations.
- Requiring 24 hours of training for less than full time staff would add financial burden to employers.

### 4226.38. Criminal History Records Check

- The requirement for a child abuse clearance through the Department of Public Welfare is missing. We recommend this be added to this section.

### 4226.39 Penalties for Noncompliance

We recommend adding the following language:

- (a) In the event of loss or delay of funding to the legal entity, the Department shall make other provisions for continued funding to assure continuation of IFSP services.



PERSONNEL 4226.51 - 4226.57

**4226.54 Requirements and Qualifications (Service Coordinator)**

We recommend deleting (2).

- Volunteer work is insufficient experience for the nature of this work as it is unspecified and unsupervised.
- Volunteer work is not allowable experience for the Caseworker 2 or 3.
- We believe the requirement for an associate's degree is insufficient for the duties of this position.

We recommend adding the following to the requirements for the service coordinator:

(d) The service coordinator should be able to demonstrate the skills identified in Part C, Sec. 303.344 (g) that state "Service coordinators must be persons who have demonstrated knowledge and understanding about:

1. Infants and toddlers who are eligible under this part;
2. Part C of the Act and the regulations under this part; and
3. The nature and scope of services available under the State's early intervention program, the systems of payments for services in the state, and other pertinent information."

**4226.55 - 4226.56 Early Interventionist**

- We recommend these two sections be deleted.
- We recommend the Department convene a task force to define this position and clarify the role and required training and credentials. The task force should include representatives from higher education, state associations from allied health professions (physical, occupational and speech therapies), families and other early intervention professionals.

**4226.57 - Effective Date of Personnel Qualifications**

For currently employed early intervention personnel who do not meet the qualifications as set forth in these regulations, we recommend retaining a grandfather clause allowing these employees to complete the training required within three years of the effective date of this proposal as per 34 C.F.R 303.361 (g)

We recommend adding the following:

**Personnel Working With Children Having Low Incidence Disabilities**

All personnel who will be working with children having low-incidence disabilities must be specifically trained to meet the unique needs of the children with these disabilities.

## EVALUATION AND ASSESSMENT 4226.61 - 4226.63

### 4226.62 MDE

- We recommend allowing counties the choice to require an initial independent evaluation that is conducted by personnel independent of service provision to the child on the initial IFSP. This does not need to be a statewide requirement.
- We recommend the following change to the language:  
(2) The initial MDE is conducted by personnel independent of service provision to the child on the initial IFSP.
- The requirement for an independent evaluation team exceeds federal law and is costly for some counties to implement.
- The use of an independent evaluation team has created problems in those counties where there are not enough qualified professionals available to provide the evaluation and to provide services. The independent evaluation process takes potential providers out of service.
- In its report, "Independent Evaluations in the Birth to Age Three Early Intervention Program" (September, 1998), The Legislative Budget and Finance Committee recommended five exceptions to the required independent evaluation.

#### (b) Evaluation and Assessment of the Child.

We recommend adding the following language

(b)(1)(D) The parents shall receive a written summary documenting the evaluation results, including developmental levels and recommended services as defined in 34 C.F.R 303.12 (d).

## IFSPs 4226.71 - 4226.75

### 4226.71. General

We recommend adding the following language to the regulations:

- (d) The Department and the legal entity shall comply with the decisions made by the IFSP team based on the child's needs and families preferences.
- Serious issues have arisen in the community when the legal entity overrides the IFSP and does not allow provision of services and/or the locations that have been agreed upon and signed by the IFSP team.
- The proposed federal regulations address this issue stating "the IFSP team is directly responsible for (1) determining the specific early intervention services necessary to meet the unique needs of the child and the family"... "and (2) implementing the provisions on natural environments, including determining where each service will be provided."  
Federal Register: September 5, 2000 (Volume 65, Number 172), Natural Environments

### 4226.72 Procedures for IFSP development, review and evaluation.

#### (b) Frequency of IFSP Review

We recommend adding the following to (b)

- The IFSP shall be evaluated once a year and the family shall be provided a review of the plan at 6 month intervals, or more often based on the infant or toddlers and families needs or any time at the request of any member of the IFSP team.
- There needs to be clarity that a review may be requested at any time by any IFSP team member.

**(d) IFSP Meetings**

- We recommend adding the following language:

**(d) (4)** The parent shall be notified in writing of their right to hold the IFSP meeting separate from the MDE or to roll the MDE meeting into the IFSP meeting as it suits the family's needs.

- There needs to be a provision for parents to have the option to hold the MDE team meeting separate from the IFSP meeting or rolling the MDE meeting into the IFSP meeting.

**4226.73 Participants in IFSP Meetings and periodic reviews.**

**(6)** Persons who will be providing services to the child as appropriate.

Delete as appropriate. The persons providing services to the child should always participate in the IFSP meeting.

- In a letter to the Legislative Budget and Finance Committee, dated 11/22/96, OSEP states "The regulations require that, as appropriate, service providers will participate not only in provision of services, but also in the assessment and determination of the integrated goals and outcomes for the IFSP. ... A state may not, however, establish policies that categorically exclude service providers as participants in IFSP meetings."

**4226.73 Participants in IFSP Meetings and Periodic Reviews**

We recommend adding the following statement to participants in IFSP meetings and periodic reviews:

**(7)** A representative of the county who has been given the authority to commit county resources to implementing the services agreed upon in the IFSP. This person may be the service coordinator, or other person given this authority.

- There needs to be clarification of who has the ability to commit county resources to provide the services on the IFSP.

We recommend adding the following :

**(d)** The parent shall be informed, in writing, of their right to have persons of their choosing, including advocates and other professionals, participate in the IFSP meeting.

**4226.74 Content of IFSP**

**(4)** Early intervention services ( i )

- We recommend the following language:

**( i )** ~~Identification~~ of the specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, location and method of delivering the services.

- The location of the services should be included.

**(4)** Early Intervention Services **(ii) (B)** Early Interventionist.

- Remove the term early interventionist.
- Refer to our recommendation for 4226.55 - 4226.56.

**(4) Natural environments.**

We recommend adding the following statement for clarification:

"If it is the decision of the IFSP team that it is appropriate for some or all of the child's services to be provided in settings other than the natural environments, justifications shall be made in writing during the initial and / or annual IFSP meeting. Funding for services provided in other than the natural environment will not be unreasonably withheld by the legal entity."

- The proposed federal regulations state "...it appears that "natural environments" is being interpreted by some to mean that, without exception, early intervention services must be provided only in the child's home or in a community setting in which children without disabilities participate. Clearly, this limitation is not intended under either the statute or these regulations"

Federal Register: September 5, 2000 (Volume 65, Number 172) Natural Environments

**(7) (i) Dates; duration of services.**

We recommend the following language:

"The projected dates for initiation of services in paragraph (4) will be agreed upon by the IFSP team. The agreed upon dates will not exceed 21 calendar days from the date of the IFSP meeting unless otherwise requested by the family."

- We believe there should be a defined date for initiation of services agreed upon by the IFSP team.

**(9) Transition from early intervention services.**

- This should contain the components of the federal regulations regarding transition.
- The regulations should state that children can not be dropped from IFSP services at age three if their parents do not agree with the services offered by the MAWA agency.
- The language in the regulations should be in agreement with the transition policy of the Pennsylvania Department of Education.

**Procedural Safeguards 4226.91 - 4226.105**

We recommend a complaint management system be added to the procedural safeguards.

- These proposed regulations do not make an allowance for a complaint management system as required by federal law.

**4226.97 Prior notice: native language**

- We recommend that this section state that the written notice, as described in federal law, describe the "state complaint procedures..., including a description of how to file a complaint and the timelines under those procedures..." 34C.F.R. Section 303.510 (a)(2)

**4226.102 Impartial Hearing Officer**

- We recommend that the hearing officer be required to be knowledgeable about children, families, early interventions and the federal and state early intervention laws and requirements.
- Federal law describes the qualifications and duties of the hearing officer. These are not mentioned in the proposed regulations.

**DENNIS M. O'BRIEN, MEMBER**  
ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1715  
PHONE: (215) 632-5150  
FAX: (215) 560-5904



*House of Representatives*  
**COMMONWEALTH OF PENNSYLVANIA**  
**HARRISBURG**

November 8, 2000

**COMMITTEES**

HEALTH AND HUMAN SERVICES  
CHAIRMAN  
JUDICIARY  
POLICY

**TO:** Stakeholders

**FROM:** Dennis M. O'Brien, Majority Chairman  
Health and Human Services Committee

**SUBJECT: Public Hearing**

The House Health and Human Services Committee will hold a public hearing regarding the Department of Public Welfare's proposed regulations for early intervention services for infants and toddlers with special needs.

The hearing will begin at 9:00 a.m. on Monday, November 20, 2000 in Room 60 East Wing.

The purpose of the hearing is to gather testimony to clarify the community concerns and comments of Early Intervention Stakeholders regarding issues impacting children with special needs and their families across Pennsylvania. Due to a number of concerns expressed by the early intervention community across the Commonwealth, I believe there is a need for the Committee to hear this testimony in order to finalize comments from the committee to the Department of Public Welfare and the Independent Regulatory Review Commission.

For additional information, or for persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation contact Maryanne Pelletier at 717-787-5689.

If you are interested in testifying at the hearing, please contact Judy Stish at 717-787-1273 and she will make arrangements for you to offer testimony. If you are unable to attend the hearing and wish to have your comments included in the hearing transcript, please send it to Maryanne Pelletier by Friday, November 17, 2000.

DMO'B:ELY:mp

**DENNIS M. O'BRIEN, MEMBER**  
ROOM 100 MAIN CAPITOL  
HOUSE BOX 202020  
HARRISBURG, PA 17120-2020  
PHONE: (717) 787-5689  
FAX: (717) 787-1339

PHILADELPHIA OFFICE:  
9811 ACADEMY ROAD, LOWER LEVEL  
PHILADELPHIA, PA 19114-1715  
PHONE: (215) 632-5150  
FAX: (215) 560-5904



*House of Representatives*  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG  
July 31, 2000

**COMMITTEES**

HEALTH AND HUMAN SERVICES  
CHAIRMAN  
JUDICIARY  
POLICY

Original: 2122

RECEIVED  
2000 AUG -3 AM 8:50  
REGULATORY REVIEW COMMISSION

Independent Regulatory Review Commission  
Robert Nyce, Executive Director  
14<sup>th</sup> Floor, Harristown 2  
333 Market Street  
Harrisburg, PA

Dear Mr. Nyce:

Please accept my thanks to you and the staff from IRRC for joining the Early Intervention Stakeholders at the meeting on July 28, 2000 on the proposed regulations. Your staff was very helpful in assisting the group in understanding the regulatory process. The group will be holding another meeting on

Thursday, August 10, 2000  
9:00 am to 3:00 pm  
Room 148 Main Capitol Building

Please RSVP to Maryanne Pelletier at 787-5689 or [mpelleti@pahousegop.com](mailto:mpelleti@pahousegop.com) so we may know how many will be coming. If you have any questions, please contact Elizabeth Yarnell, Research Analyst, Health and Human Services Committee at 787-8110.

Thank you again for your staff participation.

Sincerely,

Handwritten signature of Dennis M. O'Brien in cursive.  
DENNIS M. O'BRIEN, Chairman  
Health and Human Services Committee

DMO'B:ELY:mp