

**281—120.401 (34CFR303) Confidentiality and opportunity to examine records.**

**120.401(1) General.** The state must ensure that the parents of a child referred under this chapter are afforded the right to confidentiality of personally identifiable information, including the right to written notice of, and written consent to, the exchange of that information among agencies, consistent with federal and state laws.

**120.401(2) Confidentiality procedures.** As required under Sections 617(c) and 642 of the Act, rules 281—120.401(34CFR303) through 281—120.417(34CFR303) ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained pursuant to this chapter by the Secretary and by participating agencies, including the department and EIS providers, in accordance with the protections under the Family Educational Rights and Privacy Act (FERPA) in 20 U.S.C. 1232g and 34 CFR Part 99. The state must have procedures in effect to ensure that:

*a.* Participating agencies (including the lead agency and EIS providers) comply with the Part C confidentiality procedures in rules 281—120.401(34CFR303) through 281—120.417(34CFR303); and

*b.* The parents of infants or toddlers who are referred to or receive services under this chapter are afforded the opportunity to inspect and review all Part C early intervention records about the child and the child's family that are collected, maintained, or used under this chapter, including records related to evaluations and assessments, screening, eligibility determinations, development and implementation of IFSPs, provision of early intervention services, individual complaints involving the child, or any part of the child's early intervention record under this chapter.

**120.401(3) Applicability and time frame of procedures.** The confidentiality procedures described in subrule 120.401(2) apply to the personally identifiable information of a child and the child's family that:

*a.* Is contained in early intervention records collected, used, or maintained under this chapter by the department or an EIS provider; and

*b.* Applies from the point in time when the child is referred for early intervention services under this chapter until the later of when the participating agency is no longer required to maintain or no longer maintains that information under applicable federal and state laws.

**120.401(4) Disclosure of information: transition from Part C to Part B.**

*a.* The department shall disclose to the AEA where the child resides, in accordance with subrule 120.209(2), the following personally identifiable information under the Act:

- (1) A child's name.
- (2) A child's date of birth.
- (3) Parent contact information (including parents' names, addresses, and telephone numbers).

*b.* The information described in this subrule is needed to enable the department, as well as LEAs and AEAs under Part B of the Act, to identify all children potentially eligible for services under Part B of the Act.