

**Interagency Agreement  
Between  
West Virginia Department of Health and Human Resources,  
WV Birth to Three  
And  
West Virginia Department of Education,  
Office of Special Programs**

**I. Purpose**

The West Virginia Department of Health and Human Resources/WV Birth to Three (hereinafter referred to as WV Birth to Three/Part C Lead Agency) and the West Virginia Department of Education/Office of Special Programs (hereinafter referred to as the SEA), enter into this interagency agreement to fulfill their mutual regulatory requirements under Part C, 34 CFR 303.209(a)(3), 303.209 (b) through (f), 303.511, and Part B, 34 CFR 300.101 (b), 300.124, 300.321(f) and 300.323(b) of the Individuals with Disabilities Education Act (IDEA). The purpose of this agreement is to identify and define the fiscal responsibilities of the parties to this agreement and to facilitate the provision and coordination of services for all infants, toddlers and preschoolers who are eligible for services under IDEA. Specifically, the goals of the agreement are:

1. To define financial responsibilities of the agencies for serving children ages birth through five years;
2. To coordinate efforts to identify young children with developmental delays;
3. To ensure a smooth transition of children from early intervention services to public school programs for young children;
4. To share information concerning young children with developmental delays on a need-to-know basis in accordance with confidentiality regulations;
5. To promote interagency coordination at the local level;
6. To coordinate the assignment and training of surrogate parents;
7. To establish formal procedures to resolve interagency disputes; and
8. To promote collaborative planning, development and delivery of in-service training that addresses the needs of early childhood providers.

## **II. Financial Responsibilities**

The West Virginia Department of Health and Human Resources ensures a general supervision system for the provision of Part C early intervention services for eligible infants and toddlers under the age of three and their families. The West Virginia Department of Education assures that it has established general supervisory authority over all education programs administered within the State to provide a free appropriate public education for any eligible child. The agencies agree that:

The requirements of IDEA, 2004 are met:

1. All educational programs for children with disabilities in the state, including programs administered by any other state agency or local agency are under the general supervision of individuals in the state who are responsible for educational programs for children with disabilities and meet the educational standards of the state education agency; and
2. All activities related to children who are homeless meet the requirements of subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act;
3. Fiscal requirements for maintenance of effort in Parts B and C of IDEA are followed;
4. Federal funds available under Part C and Section 619 of IDEA are not used to supplant state, local, or other federal funds under their administrative control;
5. All available funding sources are exhausted prior to the use of federal funds appropriated for Part C and section 619 of the IDEA;
6. Funds which support services to eligible school age students with disabilities, including state and local education funds and funds under Title V, Title VI, Title IX, Title XIX, and Title XX of the Social Security Act will not alter eligibility requirements in order to increase the financial responsibility of agencies receiving IDEA funds;
7. Funds which support services to eligible school age students with disabilities will not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State Medicaid program under Title XIX of the Social Security Act;
8. IDEA does not limit the responsibility of agencies other than the educational agencies to provide for or pay for some or all of the costs of a free appropriate public education;
9. Child find activities conducted by county school districts to identify, locate, and evaluate children are funded through the West Virginia Department of Education; and
10. The Department of Health and Human Resources has responsibility for coordinating financial resources for Part C services for eligible infants and toddlers.

## **III. Child Find**

WV Birth to Three/Part C Lead Agency has responsibility for coordinating child identification activities under Part C of the Individuals with Disabilities Education Act (IDEA) with activities conducted by the West Virginia Department of Education under the provisions of Part B of IDEA and West Virginia Code §18-5-17(b). WV Birth to Three/Part C Lead Agency takes the

lead for identification of children under the age of three, including notification of children served who are reaching the potential age of eligibility for services under Part B. The SEA takes the lead for identification of children from age three through twenty one years. Nothing in this interagency agreement alters or diminishes the Department of Education's responsibility to ensure compliance with the requirements for child find for children from birth through age twenty one.

The agencies will plan and implement cooperatively a public awareness effort regarding early identification and services to children with disabilities, regardless of the severity of the disability, and their families which reflects the cultural diversity of the state. Each lead agency will ensure that these joint activities occur.

The WV Birth to Three/Part C Lead Agency and the SEA jointly agree to:

1. Develop and implement procedures which include annual public notice, screening and referral for evaluation of children suspected of being in need of special services, and referrals of potentially eligible children to the appropriate agencies;
2. Provide training and technical assistance for referral processes; and
3. With the SEA's agreement, WV Birth to Three/Part C Lead Agency takes the primary responsibility for implementation of child find activities for infants and toddlers under the age of three. The Lead Agency shall implement child find activities including multiple universal newborn screening efforts such as newborn developmental high risk birth score, metabolic, and newborn hearing screening.

#### **IV. Transition**

The Parties to this agreement agree to carry out the following with regard to planning transition from early intervention services to public school programs.

1. Coordinate policy and procedure development to ensure the requirements of Part C and Part B of IDEA at the state and local level.
2. Share child data as needed to meet federal reporting requirements.
3. WV Birth to Three/Part C Lead Agency will send a timely notification letter to respective local educational agencies (LEAs) and an electronic notification to the SEA for each child served in Part C who is reaching the potential age of eligibility for Part B services, at least 90 days prior to his/her third birthday. WV Birth to Three/Part C Lead Agency and the SEA agree to develop definitions and procedures as necessary to meet federal reporting requirements, including the indicator measurements of the Annual Performance Report (APR).
4. If WV Birth to Three determines a toddler to be eligible for early intervention services less than 90 days prior to his/her third birthday, the WV Birth to Three Regional Administrative Unit will send notification to the LEA and SEA as soon as possible that the toddler is potentially eligible for services under Part B section 619.
5. If a child is referred to WV Birth to Three less than 45 days prior to his/her third birthday, with the parent's consent, the WV Birth to Three Regional Administrative Unit will refer the child to the SEA and the respective LEA.

6. WV Birth to Three/Part C Lead Agency ensures policies and procedures to facilitate the transition of all children receiving Part C services into Part B preschool programs and/or other needed early childhood services, including the facilitation of a face-to-face transition conference at least 90 days and up to nine months prior to each child's third birthday. The transition conference will include the family, IFSP team members, and with the approval of the family, the LEA. When necessary, the transition conference and IFSP meeting may be combined into one meeting as long as requirements in 34 CFR 303.342(d) and 303.343 are met.
7. WV Birth to Three assures that a transition plan will be developed in conjunction with the family, for every toddler receiving WV Birth to Three services, at least 90 days and up to 9 months prior to the child's third birthday. The transition plan will be a component of the IFSP and must include: a review of the child's program options from the child's third birthday through the remainder of the school year; and review of the transition steps, supports and services needed to prepare the child and family for the transition. Transition steps will confirm: a) that notification was transmitted to the LEA and SEA; and, b) whether the most recent evaluation, assessments and IFSP has been sent to the LEA with parent consent.
8. WV Birth to Three/Part C Lead Agency and the SEA agree to develop definitions and procedures as necessary to meet federal reporting requirements, including the indicator measurements of the Annual Performance Report (APR).
9. The SEA assures that policies are in place to ensure that an Individualized Education Plan (IEP), or if consistent with 34 CFR 300.323(b), an IFSP, has been developed and is being implemented by the child's third birthday.
10. The SEA assures that policies are in place to ensure that each LEA will participate in transition planning conferences arranged by local WV Birth to Three providers.
11. The SEA assures that policies are in place to ensure that at the request of the parent, an invitation to the initial IEP meeting must be sent to the child's Part C service coordinator or other Part C representative if the child previously received Part C services.
12. The SEA assures that policies are in place to ensure that for all children transitioning from Part C services to Part B, the IEP team must consider the IFSP content when developing the initial IEP.

## **V. Confidentiality**

During the conduct of this agreement, the West Virginia Department of Health and Human Resources and the West Virginia Department of Education agree to share information concerning young children with developmental delays on a need-to-know basis in accordance with confidentiality requirements, including the Family Educational Rights and Privacy Act.

## **VI. Interagency Coordination at the Local Level**

The West Virginia Department of Health and Human Resources/WV Birth to Three and the West Virginia Department of Education/ Office of Special Programs agree to promote communication, information sharing, coordination, and development of local procedures among programs serving young children with developmental delays at the local level.

## **VII. Surrogate Parents**

The Department of Health and Human Resources/WV Birth to Three and the Department of Education/Office of Special Programs agree to promote collaboration by their respective local programs in the assignment and training of surrogate parents for children under three years of age.

## **VIII. Dispute Resolution**

The West Virginia Department of Health and Human Resources is responsible for resolving disputes with the West Virginia Department of Education regarding financial responsibility for services or other aspects of early intervention services, according to the following procedures:

1. Staff of the involved agencies shall attempt to resolve the dispute within thirty (30) days.
2. If it appears that staff of the involved agencies cannot resolve the dispute, a written request for formal dispute resolution is filed by the 30<sup>th</sup> day with the WV Birth to Three Coordinator in the West Virginia Department of Health and Human Resources, who notifies the State Director of Special Education in the West Virginia Department of Education. Within two days of receipt of a request for formal dispute resolution, the Governor or his designee appoints a Dispute Coordinator, who may not be a representative of any disputing agency.
3. Within fifteen (15) days of receipt of the request for dispute resolution, the Dispute Coordinator holds a meeting of representatives of the disputing agency, attempts to resolve the dispute by proposing a resolution to which the disputing agencies agree, and documents the activities and results of the meeting. Notes of the meeting are furnished to all involved parties, the WV Birth to Three Director, and the State Director of Special Education.
4. If the Dispute Coordinator cannot resolve the dispute within fifteen (15) days of the request for formal resolution, he/she will establish a Dispute Resolution Committee.
5. Within sixty (60) days of receipt of the request for formal review by the Dispute Coordinator, the Dispute Resolution Committee examines all information provided by the disputing agencies, holds a committee meeting to discuss the dispute, and renders a final decision. The Committee seeks to resolve the dispute by consensus, if possible, or by majority vote if necessary. Notes of committee meetings and copies of the final decision are furnished to all involved parties, the WV Birth to Three Director and the State Director of Special Education, by the Dispute Coordinator.
6. The disputing agencies are bound by the decision of the Dispute Resolution Committee and are required to implement the decision, unless it is reversed in a court of law.
7. This administrative process must be exhausted prior to any parties seeking review of this matter in a court of law.
8. During the pendency of an interagency dispute, the West Virginia Department of Health and Human Resources/WV Birth to Three is responsible for ensuring that Part C services are provided to eligible infants, toddlers and their families in a timely manner.
9. During the pendency of an interagency dispute, the West Virginia Department of Health and Human Resources/WV Birth to Three pays for the services in dispute. If the Dispute

Resolution Committee determines that the assignment of financial responsibility was inappropriately made, the West Virginia Department of Health and Human Resources/WV Birth to Three reassigns the responsibility to the appropriate agency and makes arrangements, if necessary, for reimbursement within ninety days from the agency found to have ultimate responsibility for the payment.

**IX. Collaborative Training**

The West Virginia Department of Health and Human Resources/ WV Birth to Three and the West Virginia Department of Education/ Office of Special Programs agree to support the collaborative planning, development and delivery of in-service training, and to advise the higher education system regarding pre-service training related to young children with disabilities and their families. Coordination will include but not be limited to needs assessment, training content, selection of training faculty, and scheduling of needed training in a manner which promotes collaboration among local early childhood partners.

**X. Duration**

This agreement shall be effective upon signature of all parties below and shall remain in effect until terminated. The agreement shall be reviewed every three (3) years and may be amended at any time by mutual agreement of the participating agencies.

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Anne Williams, Director, Office of Maternal, Child and Family Health,  
West Virginia Department of Health and Human Resources

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Date

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Patricia Homberg, Director, Office of Special Programs,  
West Virginia Department of Education

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Date