



State Interagency Agreement

Part C Infant and Toddler Early Intervention

2016

STATE OF MINNESOTA

Department of Education

Department of Health

Department of Human Services

1. Purpose

A. Who

This agreement is entered between the Minnesota Departments of Education (MDE), Health (MDH) and Human Services (DHS) and affects their respective local agencies pursuant to Minn. Stat. §§125A.26-125A.48. MDE is the lead agency pursuant to 20 U.S.C. §1435(a)(10) and Minn. Stat. §125A.27 Subd. 18.

B. What

This agreement establishes the conditions, procedures, purposes, and responsibilities of the State Agencies and each state agency's respective local agencies with respect to the areas defined in Minn. Stat §125A.48(b).

C. Why

This agreement is intended to promote the development, implementation, and maintenance of interagency, coordinated, multidisciplinary state and local early childhood intervention systems. This agreement is entered into pursuant to 20 U.S.C. §1435(a)(10)(F) and Minn. Stat. §125A.48 to implement Part C of IDEA (20 U.S.C. §§1431-1444) and Minn. Stat. §§125AA.26-125A.48.

Further, the parties believe that a comprehensive, coordinated, interagency, multidisciplinary system to be more effective and of higher quality. The parties seek to create a family focused system that is accountable, easy to access and is ready to provide needed services and supports, so that the outcomes of infants and toddlers with disabilities and their families are enhanced.

D. Target Population/Definition/(depending on eligibility criteria):

a. §303.111 State Definition of developmental delay.

Each system must include the state's rigorous definition of developmental delay, consistent with §§303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must –

- i. Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment procedures, consistent with §303.321, that will be used to measure a child's development; and
- ii. Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in §303.21(a)(1).

b. Minnesota Statutes 125A.02 **Child with a Disability Defined**

Subdivision 1. **Child with a disability.** “Child with a disability” means a child identified under federal and state special education law as deaf or hard of hearing, blind or visually impaired, deafblind, or having a speech or language impairment, a physical impairment, other health disability, developmental cognitive disability, an emotional or behavioral disorder, specific learning disability, autism spectrum disorder, traumatic brain injury, or sever multiple impairments, and who needs special education and related services, as determined by the rules of the commissioner. A licensed physician, an advanced practice nurse, or a licensed psychologist is qualified to make a diagnosis and determination of attention deficit disorder or attention deficit hyperactivity disorder for purposes of identifying a child with a disability.

Subd. 1a. **Children ages three through seven experiencing developmental delays.** In addition, every child under age three, and at local district discretion from age three to age seven, who needs special instruction and services, as determined by the rules of the commissioner, because the child has a substantial delay or has an identifiable physical or mental condition known to hinder normal development is a child with a disability.

Subd. 2. **Not a child with a disability.** A child with a short-term or temporary physical or emotional illness or disability, as determined by the rules of the commissioner, is not a child with a disability.

c. Minnesota Rule 3525.1350 **Criteria for birth through two years of age.**

The team shall determine that a child from birth through the age of two years is eligible for infant and toddler intervention services if:

- A. The child meets the criteria of one of the disability categories in United States Code, title 20, chapter 33, sections 1400, et seq., as defined in Minnesota Rules; or
- B. The child meets the criteria for developmental delay in subitem (1), (2), or (3):
 - i. The child has a diagnosed physical or mental condition or disorder that has a high probability of resulting in developmental delay regardless of whether the child has a demonstrated need or delay;
 - ii. The child is experiencing a developmental delay that is demonstrated by a score of 1.5 standard deviations or more below the mean, as measured by the appropriate diagnostic measures and procedures, in one or more of the following areas:
 - a) Cognitive development;

- b) Physical development, including vision and hearing;
 - c) Communication development;
 - d) Social or emotional development; and
 - e) Adaptive development or
- iii. The child's eligibility is established through the application of informed clinical opinion. Informed clinical opinion may be used as an independent basis to establish a child's eligibility under this part even when other instruments do not establish eligibility; however, in no event may informed clinical opinion be used to negate the results of evaluation instruments to establish eligibility.
 - iv. **Child Find.** Infants and toddlers who are involved in suspected cases of child abuse or neglect, infants and toddlers with disabilities who are homeless, infants and toddlers who are wards of the state.

II. Part C Early Intervention Operational Structure: Membership, Roles and Responsibilities (in no particular order)

A. Children's Cabinet?

B. Governor's Interagency Coordinating Council on Early Childhood Intervention (ICC)

The duties of the ICC include recommending policies to ensure a comprehensive and coordinated multidisciplinary interagency system of all state and local early intervention services for children with disabilities under age five and their families. The policies must address how to incorporate each agency's services into a unified state and local system of multi-disciplinary assessment practices, individual intervention plans, comprehensive systems to find children in need of services, methods to improve public awareness and assistance in determining the role of the Interagency Early Intervention Committees (IEICs).

According to Minnesota Statutes, section 125A.28 the council must annually recommend to the Governor and the Commissioners of the Departments of Education, Health, and Human Services, Commerce and Economic Security, policies for a comprehensive and coordinated system. The ICC is also required to prepare and submit an annual report on the status of early intervention programs for infants and toddlers with disabilities and their families that are operated within the state. The State's annual performance report may serve as the report to the Governor.

An ICC of at least 17, but no more than 25 members is established, in compliance with the 2004 reauthorization of IDEA and MS 125A.28; 34 C.F.R.

Part 303.650. The committee shall advise and assist the state lead agency, MDE, in the implementation of the system.

C. State Lead Agency: MDE (the department)

a) must administer the early intervention account that consists of federal allocations in accordance with Minnesota's Allocation under Part C of the Individuals with Disabilities Education Act (state plan) and applicable state and federal law. MDE must distribute the funds to the local primary agencies pursuant to Minn. Stat. §125A.35.

b) is not limited in authority to allocate discretionary federal funds for any purpose consistent with the IDEA (20 U.S.C. §§1431-1444, Part C) and regulations adopted there under, except by agreement.

c) is the agency designated to receive Federal funds from IDEA (add citation) (Minn. Stat. 125A.27 Subd. 18).

D. Interagency Early Intervention Committees (IEICs)

The governing boards (county and school boards) must establish an Interagency Early Intervention Committee for children with disabilities under age 5 and their families under this section, and for children with disabilities ages three to 21 consistent with the requirements under sections 125A.023 and 125A.027. Committees must include representatives of local education, county human services agencies, public health agencies, county boards, school boards, early childhood family education programs, Head Start, parents of young children with disabilities under the age of 12, child care resources and referral agencies, school readiness programs, current service providers, and may also include representatives from other private and public agencies and school nurses

The committee must elect a chair from among its members and must meet at least quarterly.

The committee must develop and implement interagency policies and procedures and must have an interagency agreement or joint powers agreement.

The committee's required duties are listed under section 125A.30.

III. Part C Early Intervention System Components, Lead and Joint Agency Responsibilities

Comprehensive Child Find System (including public awareness program and the central directory)

All parties to this agreement must ensure that the local agencies under their supervision and/or authority participate in interagency early intervention committees (IEICs) and are responsible to identify, and refer infants and young children with, or at risk of, disabilities and their families pursuant to Minn. Stat. §§125A.27 Subd. 11, 125A.30 and 125A.36.

All parties to this agreement must ensure that the state programs under their jurisdiction and well as the local agencies under their supervision and/or authority adhere to the current system for child find and referral, utilizing the system only for its intended purposes.

Evaluation, Assessment and Non-Discriminatory Procedures

All parties to this agreement ensure that the local agencies under their supervision and/or authority use these procedures.

MDE assumes lead responsibility for the development of the procedures and assures that they are in place and used.

Individualized Family Service Plan (IFSP) and the Individual Interagency Intervention Plan (IIIP)

All parties to this agreement must ensure that they contribute to the development and maintenance of the document(s) and process and assure that the local agencies under their supervision and/or authority use and are compliant with the requirements that govern the data elements and processes.

Service Coordination

All parties to this agreement must ensure that the local agencies under their supervision and/or authority assign a service coordinator to a child on an IFSP and that the service is provided and payment arrangements are made. They further agree to support the capacity to provide service coordination through training, technical assistance and developing funding options.

Comprehensive System of Personnel Development

The parties to this agreement, and the agencies and programs under their supervision and/or authority ensures that personnel have adequate preparation (pre service) and are provided ongoing training so that personnel are able to perform the functions necessary to deliver early intervention services. Reference COE?

Personnel Standards

The parties to this agreement ensure that all disciplines providing early intervention services meet the high standards required through the appropriate statutes, rules and licensures.

Procedural Safeguards

The parties to this agreement must ensure that parent and child rights are protected consistent with Minn. Stat. §125A.42 and the IDEA as 20 U.S.C. §1439.

MDE has lead responsibilities to provide mediation services for parents and agencies pursuant to Minn. Stat. §125A.43 and the IDEA as 20 U.S.C. §1439(a)(8).

MDE must be responsible for due process hearings, pursuant to Minn. Stat. §125A.46 and the IDEA at 20 U.S.C. §1439(a)(1).

Mediation

Supervision and Monitoring of Programs/Quality Assurance

The parties to this agreement must create and implement a monitoring and supervision program for the purpose of examining and evaluating local early intervention systems and providing data and recommendations for improvement of those systems. The system must include, pursuant to 20 U.S.C. §1435(a)(10), a single line of responsibility within MDE for the purpose of general administration and supervision of programs and activities receiving assistance under 20 U.S.C. 1433, and the monitoring of all programs and activities under Part C.

Complaint Resolution

MDE must provide a complaint procedure for individuals and organizations pursuant to Minn. Stat. §125A.44 and the IDEA at 20 U.S.C. §1439(a)(1), which parallels the system developed under 34 CFR 300.660-662.

Financial Responsibilities of the State and Local Agencies

The parties to this agreement must ensure that the local agencies under their supervision and/or authority will reallocate resources from the early intervention flow through dollars as necessary in order to meet the priority purpose of providing early intervention services not elsewhere available, or to pay for services during a pending conflict procedure, including mediation, complaints, due process hearings, and interagency disputes, pursuant to Minn. Stat. §125A.35 Subd. 1.

The parties to this agreement must ensure that the local agencies under their supervision and/or authority will, in absence of local interagency agreements to the contrary, provide, pay for, and facilitate payment for special education and related services required under Minn. Stat. §§125A.05 and 125A.06, and provide, pay for, and facilitate payment for noneducational services of social work, psychology, transportation and related costs, nursing, respite, and nutritional services, pursuant to Minn. Stat. §125A.29(C).

The parties to this agreement must ensure, pursuant to Minn. Stat. §125A.31, that the local primary agencies under their supervision and/or authority, which have been designated local primary agencies pursuant to Minn. Stat. §125A.29(e), will: facilitate the development of annual plan requests that identify arrangements with other local agencies providing services as part of the state's early childhood intervention system and that result in service availability on a year-round basis, and administer funds received through the annual plan request.

The parties to this agreement must ensure that parents will not be denied early intervention services due to an inability to pay or otherwise contribute financially.

Intra agency and Interagency Dispute Resolution

MDE, as the lead agency, has the responsibility to administer and oversee dispute resolution for the state and local agencies.

Procedures available:

State agencies

If a dispute arises between the parties to this agreement over any of the matters herein or pertaining to the provision of early intervention services, including core early intervention services, the Commissioners of all three agencies must attempt to reconcile the dispute. If the dispute is not resolved within 30 days of the written notice of the dispute to any of the parties, the final decision must rest with the Governor or the Governor's designee. The Commissioners may agree, in writing, to one 30-day extension of the timeline, prior to the conclusion of the initial 30 days.

Local agencies

The parties to this agreement must ensure that disputes between local agencies under their supervision and/or authority will be resolved according to Minn. Stat. §125A.45 when the dispute involves services provided to children and families eligible under IDEA at 20 U.S.C. §1431 et seq. (Part C).

This agreement pertains to disputes occurring when a school board and county board is unable to agree as to who is responsible to coordinate, provide, pay for, or facilitate payment for services from public and private sources.

The parties to this agreement must ensure that disputes will be in writing, signed, and filed with the local primary agency in order to be acted upon.

The parties to this agreement must ensure that the local primary agency under their supervision and/or authority will attempt to resolve the matter with the involved school board and county board. Local agencies may request mediation from the Commissioner of MDE for this purpose.

The parties to this agreement must ensure that when local interagency disputes have not been resolved within 30 calendar days, the local primary agency under their supervision and/or authority will request the Commissioner of MDE to review the matter with the Commissioners of MDH and DHS to make a decision. The Commissioner of MDE must provide a consistent process for reviewing those procedures. The decision is binding subject to the right of an aggrieved party to appeal to the state court of appeals.

The parties to this agreement must ensure that the local primary agency will ensure that eligible children and their families receive early intervention service during resolution of a dispute. The parties to this agreement must ensure that while there is a local dispute pending, the local primary agency under their supervision and/or authority will either assign financial responsibility to another local agency or pay for the service from the early intervention account under Minn.Stat. §§125A.34. The parties agree, in accordance with Minn. Stat. §125A.45, that if in resolving the dispute, it is determined that the assignment of financial responsibility for payment must be reassigned to the appropriate agency

and the responsible agency will make arrangements for reimbursing any expenditures incurred by the agency originally assigned financial responsibility.

IV. Individual State Agency Roles and Responsibilities

Over and above the joint responsibilities, individual agencies will do the following system component development:

Department of Education

1. MDE has primary responsibilities pertinent to this agreement under the following statutes: 42 U.S.C. §§1411-1420 (The Individuals with Disabilities Education Act, IDEA) and Minnesota Statutes Chapter 125A.
2. MDE agrees to ensure that the provisions of law under its authority, including those pertaining to local agencies under its supervision or otherwise subject to its authority, are adhered to and enforced. Specifically: that free, appropriate public education is provided to all eligible students with disabilities in accordance with the provisions of IDEA and Minn. Stat. §125A. including, but not limited to, the identification of eligible children, provision of assessment and evaluation, coordination of services and related services, and dispute resolution procedures.
3. MDE, as lead agency, assumes the responsibility for assurances and is the main contact with the Federal Office (see previous lead agency description, state plan, monitoring...)
4. MDE provides staff and resources for the operations of the ICC.
5. Division of Compliance and Assistance
6. Early Head Start, Head Start, ECFE, ECSE, School Readiness
7. Fiscal Interagency Agreement between MDE and MDH
8. T/TA
9. MnSIC

Department of Health

1. The Minnesota Department of Health (MDH) has responsibilities pertinent to this agreement under the following state and federal statutes and programs:
 - a. Title V – Maternal Child Health Block Grant targets Title V grants to state health agencies and are used to meet locally determined needs, consistent with national health objectives. These objectives include preventing death, disease and disability; assuring access to quality health care; and providing family centered, community-based services for children with special health care needs. In Minnesota, 2/3 of the block grant goes to local public health agencies to fund priority areas within the above objectives.

2. Minnesota Statutes, Chapter 145, Section 145.882 which provides for the distribution of maternal and child health block grant funding to local community health agencies for programs that serve high risk low income families with children who have or are likely to have a chronic disease, disability or other special medical needs, including physical, neurological, emotional and developmental problems that arise from chemical abuse by the mother during pregnancy. (Chapter 145, Section 145.882, subd. 7)
3. MDH agrees to ensure that the provisions of laws under its authority are adhered to and enforced. Further, MDE agrees to fully participate through the provision of staff and other resources in the implementation of coordinated interagency services for children with disabilities and other State Interagency Coordinating Council functions as specified in Minnesota Statute.
4. Provide support to local agencies to enhance their capacity in the development and maintenance of a coordinated system for children, including those with disabilities.
5. Provide technical assistance to Local Public Health agencies to ensure that the Part C system provision is identified as a need/priority under the Local Public Health Act as an essential activity/service, including the facilitation of the Regional Early Intervention system to ensure that the infrastructure is maintained and supported.

Department of Human Services

DHS has responsibilities pertinent to this agreement under the following state and federal statutes and programs:

1. Medical assistance under the Social Security Act, 42 U.S.C. §1396, et seq., including children in the target population served under the state's Medical Assistance fee-for-service program, the Prepaid Medical Assistance Program pursuant to Minnesota Statutes §256B.69, any County-Based Purchasing Program established pursuant to Minn. Stat. §256B.692, and any prepaid health care program for people with disabilities pursuant to statute, rule or federal waiver.
2. Assure connections to the Children's Mental Health Collaborative under Minn. Stat. §§245.491 to 245.496.
3. Assure that the mental health needs of very young children are addressed within the Family Community Support Plan under Minn. Stat. §245-4881, including children's mental health services mandated under the Comprehensive Children's Mental Health Act, Minn. Stat. §§245.4871 to 245.4888.
4. The Minnesota Care program under Minn. Stat. Chapter 256L.

5. Community Social Services Act funding under the Social Security Act, 42 U.S.C. §§1397 to 1397f, including services provided to children in the target population that are funded by state and Community Social Services Act dollars under Minn. Stat. Chapter 256E; (MFIP 11 consolidates MS 2561.626 and MS 256M.01 to 256M.80)
6. Any additional appropriate services that the state or local agencies provide on a need and eligibility basis.
7. DHS agrees to ensure that the provisions of the laws under its authority, including those pertaining to the local agencies under its supervision or otherwise subject to its authority, are adhered to and enforced. DHS further agrees to ensure that the state and local agencies under its supervision fully participate in the coordination of services including but not limited to: identification and assessment, the development and implementation of single plans, the provision and payment of services for which they are responsible under law. SHD also agrees to assist local agencies with knowledge and resources needed to fully implement a coordinated interagency system and individual interagency intervention plans.
8. CAPTA
9. Develop and maintain an intra agency infrastructure for children with disabilities and their families by collecting and sharing needed data, integrate funding and program activities and promote the interagency individual planning process for children and their families (IFSP/IIIP).
10. Support local agencies, under the supervision and authority, through training and technical assistance and resource allocation so that they can participate and contribute to the interagency system and can support children and their families.
11. Assure that the local agencies under DHS supervision know their responsibilities and capacity to provide, pay for or arrange payment for the non-educational services such as, respite care, social work, family training and support, service coordination and other non-educational services.

V. Additional Procedures

Local Interagency Agreements

The parties to this agreement must ensure that school boards and county boards under their supervision and/or authority establish local interagency agreements to carry out the terms of this agreement, pursuant to Minn. Stat. §125A.39.

Review of Local Agency Allocation of Additional State and Federal Early Intervention Funds

The parties to this agreement must review the allocation of additional state and federal early intervention funds by local agencies providing early intervention services to children with disabilities and their families. The specific financial responsibilities of each of the respective state agencies are defined in section II.E. of this agreement and in accordance with state law.

Maintenance of Effort

The parties to this agreement with authority must ensure that county boards continue to provide services set forth in their county social service agency plan. The parties must ensure that the county human services agency, county health agency and county board will serve children with disabilities birth through age two and their families, as specified in the IFSP. Special instruction and related services for which a child with a disability is eligible under Minn. Stat. §125A are the responsibility of the local school board and must be ensured by MDE. The parties with authority must ensure that they county boards and school boards will coordinate, provide, and pay for all appropriate services required under Minn. Stat. §125A.29 and that they will facilitate payment for services from public and private resources. See Minn. Stat. §§125A.38, 125A.35 Subd. 4 and 5.

Payor of Last Resort

MDE must, pursuant to Minn. Stat. §125A.37 and 20 U.S.C. §1440, maintain a reserve account from federal sources to pay for services in dispute or to pay for early intervention services when local agencies have exhausted all other public and private funds available to Part C eligible children.

Data Collection and Data Practices

The parties to this agreement must develop and implement a plan to collect data about which early intervention services are being provided to children and families eligible under the IDEA at 20 U.S.C §1433 et seq. (Part C) and sources of payment for those services, pursuant to Minn. Stat. §125A.47. The parties agree to ensure that local primary agencies under their supervision and/or authority provide oversight for data collection efforts. Parties assure that the local agencies under their supervision are apprised of and use appropriate data practices, policies and procedures (FERPA, HIPAA, and Minnesota Government Data Practices Act)

The following documents also bind the parties to this agreement and are indexed here for reference:

Minnesota's Application under Part C of the Individuals with Disabilities Education Act [The State Plan] *This interagency agreement is Appendix J to the State Plan.

Interagency Fiscal Agreement between Education and the Department of Health.

Duration

This agreement must be effective immediately. This agreement must be reviewed by the ICC and, if necessary, updated, no less than annually, pursuant to Minn. Stat. §125A.48(a).