

Memorandum of Understanding



Department of Assistive and
Rehabilitative Services
Early Childhood Intervention and
the Texas Education Agency

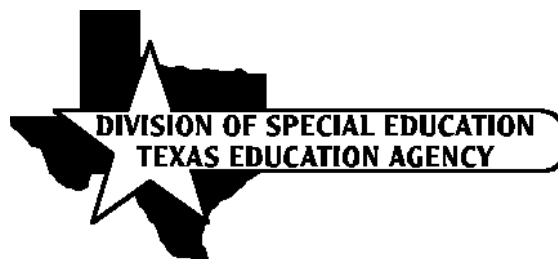


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I. PURPOSES

The purposes of this Memorandum of Understanding are to define roles and responsibilities between Early Childhood Intervention (ECI) and the Texas Education Agency (TEA) within the respective federal and state mandates relating to children with disabilities; enhance interagency collaboration and relationships; and coordinate an effective system of activities, policies and procedures between the TEA and ECI which guide and support the development and implementation of transition services for families of children with disabilities who are approaching age three.

II. FEDERAL INTENT

An overwhelming case exists for expanding and improving the provision of early intervention and preschool programs. Studies of the effectiveness of preschool education for children with disabilities have demonstrated beyond doubt the economic and educational benefits of programs for young children with disabilities. In addition, the studies have shown that the earlier intervention is started, the greater is the ultimate dollar savings and the higher is the rate of educational attainment by children with disabilities.

More specifically, research indicates that early intervention and preschool special education services accomplish the following:

1. Help enhance intelligence in some children;
2. Produce substantial gains in physical development, cognitive development, language and speech development, psycho-social development and self-help skills;
3. Help prevent the development of secondary disability conditions;
4. Reduce family stress;
5. Reduce societal dependency and institutionalization;
6. Reduce the need for special class placement in special education programs once the children reach school age; and
7. Save substantial costs to society and our nation's schools.

III. PROGRAM OVERVIEWS

Early Childhood Intervention Agency (ECI):

ECI is a coordinated system of services available in every county within Texas for children birth to age three with disabilities or delays. ECI is funded through the federal Individuals with Disabilities Education Act (IDEA, Part C), P.L. 105-17 and through state appropriations. ECI supports families to help children reach potential through developmental services. ECI contracts with local agencies and organizations through a funding application process. Approximately half of ECI contracts are with local mental health mental retardation facilities; about one-quarter are with school districts or regional Education Service Centers; and about one-quarter are non-profit organizations. The staff of these programs provides services to children and families. ECI staff may include physical therapists, occupational therapists, speech and language therapists, audiologists, educators, social workers, nurses, dieticians, psychologists, licensed professional counselors, and early intervention specialists. ECI programs must follow the Texas Early Childhood Intervention Policy Manual.

Texas Education Agency – Preschool Programs for Children with Disabilities (PPCD), age Three through Five:

The 1997 Amendments to IDEA, Part B – Services to children with Disabilities, age 3-21, set out three core concepts: (1) the involvement and progress of children with disabilities in the general curriculum including addressing the unique needs that arise out of the disability; (2) the involvement of parents, together with general and special education personnel, in making individual decisions to support educational success for children with disabilities, and (3) the promotion of improved educational results for each child with a disability, through early intervention, preschool, and educational experiences, in preparation for future educational challenges, employment and independent living. In Texas, PPCD are coordinated at the state level by the Texas Education Agency and at the regional level by Education Service Centers. Local education agencies (LEA) implement the program for the individual children with disabilities through the Individualized Education Program (IEP) developed by the Admission, Review, and Dismissal (ARD) committee. The IDEA ensures that all eligible children with disabilities, age 3-21, have available to them a free and appropriate public education (FAPE) that emphasizes special education and related services designed to meet unique needs which allow for successful participation and progress in the general curriculum in the least restrictive environment. PPCD are funded through federal, state, and local funds.

The MOU is organized into sections that define the transition process from Part C to Part B services. Under each section, the rules and regulations are presented in a side-by-side comparison. These rules and regulations must be fully implemented. For ECI, the side-by-side also includes requirements found in the ECI Policy Manual that must be followed by ECI providers. Guidance is offered to describe the agreement and collaboration between the agencies and to facilitate best practices in order to ensure a smooth and effective transition for children.

IV. CHILD FIND

Child Find	
ECI (Part C)	TEA (Part B)
<p>The local ECI programs must identify, locate, and screen or evaluate all infants and toddlers, birth through two years of age, who have or are suspected of having developmental delays. (34 CFR §303.321)</p> <p>The local ECI program (with the state agency), shall ensure that the child find system is coordinated with all other major efforts to locate and identify children conducted by other state agencies responsible for administering the various education, health, and social services programs and that there will not be unnecessary duplication of effort by the various agencies. (34 CFR §303.321)</p> <p>ECI must notify the local educational agency, for the area in which the child resides, that the child will shortly reach the age of eligibility for preschool services for children with disabilities. By the child's second birthday, programs must notify the appropriate LEA child find personnel of the child's birth date. The notification must be written and include the following information:</p> <ul style="list-style-type: none"> • Child's name; • Parent(s) or guardian(s) name; • Address; • Telephone listing; • Date of enrollment in ECI (34 CFR §300.148) <p>The child find system must include procedures for use by primary referral sources for referring a child to the appropriate ECI program for evaluation and assessment. (34 CFR §303.321)</p> <p>Once the local ECI program receives a referral, it shall appoint a service coordinator as soon as possible. (34 CFR §303.321)</p>	<p>All children age 0-21 with disabilities residing in the state, including children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services are located, identified, and evaluated. (34 CFR §300.125)</p> <p>Each LEA shall locate, identify, and evaluate all private school children with disabilities, including religious-school children, residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for private school children with disabilities must be comparable to activities undertaken for children with disabilities at public schools. (34 CFR §300.451)</p>

TEA/ECI Early Transition MOU

Child Find	
ECI (Part C)	TEA (Part B)
<p>Each local ECI program must develop and implement a child find plan which includes:</p> <ul style="list-style-type: none"> • Ongoing contact and coordination with primary referral sources and other service providers, including, but not limited to: <ul style="list-style-type: none"> ○ Child find programs located within the education service centers; ○ Local and regional health departments with Maternal and Child Health Programs under Title V of the Social Security Act; ○ Medicaid Early Periodic Screening, Diagnosis, and Treatment Program (EPSDT); ○ Head Start programs; ○ Hospitals; ○ Day care programs; ○ Local Education Agencies; ○ Social service agencies; ○ Primary health care providers; ○ Child care management services (CCMS); • Information regarding availability of other local services including other ECI programs; • Accepting referrals for intervention services and evaluating each child for eligibility within 45 days of the referral. (25 TAC §621.24) 	

Child Find Guidance:

- Child find is a collaborative effort between ECI (Part C) and TEA (Part B) and the two systems have overlapping responsibilities in this area. Under Part B, the LEAs are responsible for maintaining a comprehensive child find system for children birth through twenty-one years of age which includes locating, identifying, and evaluating children with disabilities. ECI programs are responsible for ensuring children eligible for ECI services, birth through two years of age, are located, identified and evaluated.
- To assist the LEAs in implementing child find responsibilities, ECI programs will notify the appropriate LEA when a child enrolled in the ECI program reaches his/her second birthday. If a child is determined eligible for ECI after the 2nd birthday, notification to the LEA should be made within 5 working days of eligibility determination. ECI programs must work with the LEAs to develop a system for the transfer of the identifying information, which includes confirmation that the LEA has received the information (i.e., information submitted by fax could request a faxed confirmation). The LEA must maintain the identifying information received from ECI. Documented confirmation that the LEA has received directory information must be maintained in the ECI program files. Submitting such information to the LEA is not intended to imply that these children are eligible for preschool programs for children with disabilities.
- LEAs and ECI programs are encouraged to establish local policies and procedures in which a collaborative child find system can be maintained for their communities.
- There is a child find contact designated at the TEA division of special education, each regional education service center and each LEA.
- Under Part B, ultimate responsibility for child find rests with the LEA. ESCs provide leadership, support, and technical assistance to the LEAs in fulfilling the child find obligation. ESCs and districts should be aware of their coordinated roles and responsibilities.
- LEAs and ECI have the responsibility to extend child find efforts to all places in the community where children may spend the day (i.e., homes, childcare/private preschool, nursing home facilities, etc.)
- ESCs have the responsibility to evaluate their efforts/program regarding child find. ESCs provide leadership to the LEAs in evaluating district level child find efforts/program.

V. **TRANSITION PROCESS**

Transition Process	
ECI (Part C)	TEA (Part B)
<p>By age two, strategies addressing transition must be included in the IFSP. The IFSP must include the steps ECI will take to assist the family in preparing their child for transition, which will take place on the child's third birthday to:</p> <ul style="list-style-type: none"> • Preschool Programs for Children with Disabilities; or • other services that may be available, if appropriate. <p>The transition strategies include, but are not limited to:</p> <ul style="list-style-type: none"> • discussions with, and training of, parents regarding future placements and other matters related to the child's transition; • procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; • with parental consent, the transmission of information about the child to the LEA or other service provider, to ensure continuity of services, including evaluation and assessment information, and copies of IFSPs that have been developed and implemented; • with the approval of the family, the convening of a conference among the ECI program, the family, and the LEA at least 120 days before the child's third birthday to review the child's program options for the period from the child's third birthday through the remainder of the school year; and • establishment of a transition plan. <p>(34 CFR §303.148)(34 CFR §303.344 (h)) (25 TAC §621.23(l))</p>	<p>Each LEA will participate in transition planning conferences arranged by the designated local ECI program. In Texas, the transition planning conferences are held 120 days before the child's third birthday. (34 CFR §300.132)</p> <p>By the third birthday, an IEP has been developed and is being implemented. (34 CFR §300.132)</p> <p>Services are made available to students on their third birthday. (19 TAC §89.1035)</p> <p>If a child's third birthday occurs during the summer, the child's ARD committee shall determine the date when services under the IEP will begin. (34 CFR §300.121)</p> <p>Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities. (19 TAC § 89.1065)</p> <p>The need for ESY services must be determined on an individual student basis by the admission, review, and dismissal (ARD) committee in accordance with 34 Code of Federal Regulations (CFR), §300.309, and the provisions of this section. In determining the need for and in providing ESY services, a LEA may not:</p> <ul style="list-style-type: none"> • limit ESY services to particular categories of disability; or • unilaterally limit the type, amount, or duration of ESY services. (19 TAC § 89.1065)

Transition Process	
ECI (Part C)	TEA (Part B)
	<p>The need for ESY services must be documented from formal and/or informal evaluations provided by the LEA or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services. (19 TAC § 89.1065)</p> <p>The reasonable period of time for recoupment of acquired critical skills shall be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment shall not exceed eight weeks. (19 TAC § 89.1065)</p> <p>A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:</p> <ul style="list-style-type: none"> • placement in a more restrictive instructional arrangement; • significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum; • significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services. (19 TAC 89.1065)

Transition Process	
ECI (Part C)	TEA (Part B)
	<p>If the LEA does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services pursuant to 34 CFR, §300.344. (19 TAC § 89.1065)</p> <p>If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee shall reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP. (19 TAC § 89.1065)</p> <p>For students enrolling in a LEA during the school year, information obtained from the prior LEA as well as information collected during the current year may be used to determine the need for ESY services. (19 TAC § 89.1065)</p> <p>The provision of ESY services is limited to the educational needs of the student and shall not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student shall be denied ESY services because the student receives care and treatment services under the auspices of other agencies. (19 TAC § 89.1065)</p> <p>Each LEA shall ensure that an IEP is in effect before special education and related services are provided to an eligible child. (34 CFR §300.342)</p>

Transition Process Guidance:

- ECI programs and LEAs must follow federal and state laws regarding confidentiality, including but not limited to the Federal Educational Rights and Privacy Act (FERPA), 20 USC § 1232g.
- Federal and state guidelines must be followed to ensure that timelines are met by ECI and TEA (ECI programs and LEAs). ECI programs and LEAs should work together to develop a system for inviting the LEA to the 120-day transition meeting and for confirming the LEA representative attendance at the meeting.
- The 120-day transition meeting is the cornerstone of the transition process. The meeting provides an opportunity for the family, ECI and LEA staff to make plans regarding the transition process. The transition meeting is an opportunity to explain eligibility criteria, service options, and the IEP process. The referral to the LEA may be made before the transition meeting, during the transition meeting or after the transition meeting.
- It is important to explain to the family that a delay in providing consent for LEA involvement during the transition process (including the 120-day transition meeting) may impede the implementation of timely, appropriate special education services for eligible children. The collaborative involvement of the family, ECI and LEA staff ensures that a determination is made as to whether children with disabilities are eligible for LEA special education services.
- The timing of a child's third birthday will influence the transition process and timeframe. Interagency collaboration is especially critical when the child turns three between the months of May and September. ECI program and LEA policies and procedures should address referral procedures in these instances to ensure that the timelines can be met, and the transition is as smooth as possible. Generally, children turning three late in the school year should begin school services when they turn three. In some instances, the ARD committee, including the family, may decide that IEP services will begin at the start of the upcoming school year.
- When a child turns three during the summer, the ARD committee, which includes the family, may begin to implement the IEP upon the start of the school year. Or, if necessary for the child to receive a free and appropriate public education (FAPE), the ARD committee may decide to begin to implement the IEP through ESY services. Note: The instructional setting code for the initial ESY services should be the same as the instructional setting code for services implemented at the beginning of the fall session. The need for ESY services must be documented from formal and /or informal evaluations provided by the LEA or the parents. Another agency or an ECI program could provide formal/and or informal evaluation information as one piece of the documentation.
- LEA and ECI programs should determine policies, procedures, and/or guidelines, including roles and responsibilities, to be followed when a child is referred for services close to his/her third birthday. These policies, procedures, or guidelines serve to ensure that the IEP is in place for eligible children on their third birthday.

- On a case-by-case basis to ensure immediate access to services, a temporary placement may be made as a part of the evaluation process to assist the LEA in determining the appropriate placement for the child. However, it would not be consistent with the requirements of IDEA for an LEA to adopt an across-the-board policy of developing interim IEPs for all children with disabilities who are referred to the LEA. It is also essential that the initial placement be considered temporary until the necessary evaluations have been completed and the ARD committee has met to make a final placement decision based on the evaluation data. In order to assure that this happens appropriately, the LEA should:
 - Develop an interim IEP for the child that sets out the specific conditions and timelines for the trial placement.
 - Ensure that the parents agree to the interim placement before it is carried out, and that they are involved throughout the process of developing, reviewing and revising the child's IEP.
 - Set a specific timeline for completing the evaluation, finalizing the IEP, and determining the appropriate placement for the child not to exceed 30 school days.
 - Conduct a second ARD meeting at the end of the temporary placement in order to review evaluation data and finalize the child's IEP.
- LEAs must have procedures in place for children referred during summer months (i.e., June, July, August) that ensure that services begin as soon as necessary to guarantee FAPE. Procedures should include evaluation processes, eligibility determination, and IEP development, which occur within prescribed timelines. The ARD committee should determine if it is necessary for services to begin immediately, through ESY services, or whether they will begin on the first day of the regular school year.
- Parents should be given the opportunity to evaluate the transitions from the local ECI to the LEA. A parent satisfaction survey completed by the parent after the Admission, Review, and Dismissal (ARD) meeting is one way to collect data on the parent perspective of the transition process. In order to ensure that appropriate decisions were made, the local programs could collaboratively develop a follow up survey to be completed by families three to six months after the IEP has been implemented. The information collected through surveys should be shared between the LEA and the local ECI program as one piece of evaluation data on the early transition process.

VI. EVALUATION PROCESS FOR ELIGIBILITY DETERMINATION

Evaluation Process for Eligibility Determination	
ECI (Part C)	TEA (Part B)
<p>Upon initial referral and annually thereafter, programs must provide a comprehensive, interdisciplinary team assessment and evaluation for each child as well as activities to assist the family in the identification of concerns, priorities, and resources.</p> <p>Programs must give parents written notice prior to performing evaluations and assessments. Families must be given sufficient time to invite anyone they choose to participate in the evaluation process.</p> <p>The notice must include information regarding:</p> <ul style="list-style-type: none"> • Persons who will be involved in the assessment and evaluation and their respective disciplines; • How the family will be involved in the assessment and evaluation; • The instruments to be used for evaluation; • When and how the information will be shared; and • Who will have access to the information. <p>All evaluations and assessments must be provided at no cost to families.</p> <p>All evaluations and assessments of the child and/or families must:</p> <ul style="list-style-type: none"> • Be conducted by persons trained to use appropriate methods and procedures. • Include the name(s) of the evaluators and the date the test was administered on test protocols. 	<p>Each local education agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services to determine if the child is a child with a disability and to determine the educational needs of the child. (34 CFR §300.320)</p> <p>As a part of an initial evaluation (if appropriate), a group that includes the individuals that constitute an ARD committee, and other qualified professionals, as appropriate, shall review existing evaluation data on the child. The information should include, but not be limited to; evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and observations by teachers and related services providers (including data from evaluations conducted by other agencies). (34 CFR §300.533)</p> <p>On the basis of that review, and input from the child's parents, the group shall identify what additional data, if any, are needed to determine:</p> <ul style="list-style-type: none"> • Whether the child has a particular category of disability; • The present levels of performance and educational needs of the child; • Whether the child needs special education and related services, and • Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum (or appropriate activities) (34 CFR §300.533)

Evaluation Process for Eligibility Determination	
ECI (Part C)	TEA (Part B)
<ul style="list-style-type: none"> • Be administered in the native language of the parents and child or other mode of communication unless it is clearly not feasible to do so. • Be conducted in the settings and under circumstances that have been selected by the family as most appropriate for the child. • Be nondiscriminatory in regard to race or culture. • Be reviewed on an ongoing basis and updated at a frequency recommended by the interdisciplinary team. • Be based on informed clinical opinion. • Be based on appropriate use of multiple methods and procedures which ensure that no single criterion is utilized to determine eligibility. • Include a review of the child’s health and medical history. • Include an evaluation to determine eligibility and child’s level of functioning in the areas of cognition, physical development (including vision, hearing, gross motor, fine motor, and nutrition status), communication development, social emotional and adaptive/self-help skills. • Include an assessment of the child’s unique strengths and needs in terms of each of the developmental areas. • Include parental input regarding their child’s functional abilities and current levels of participation in settings the family has identified as natural or normal. • Include other input as selected by the parents. <p>Assessments from other entities utilized to establish eligibility must be consistent with ECI policies.</p>	<p>Each LEA shall ensure, at a minimum, that the following requirements are met:</p> <ul style="list-style-type: none"> • The tests and other evaluation materials used to assess a child: <ul style="list-style-type: none"> ○ Are selected and administered so as not to be discriminatory on a racial or cultural basis; and ○ Are provided and administered in the child’s native language or other mode of communication, unless it is clearly not feasible to do so. (34 CFR § 300.532) • Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child’s English language skills. (34 CFR §300.532) • A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved in and progress in the general curriculum (or appropriate activities), that may assist in determining: <ul style="list-style-type: none"> ○ Whether the child is a child with a disability; ○ The content of the child’s IEP (34 CFR §300.532) • Any standardized tests that are given to a child have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of

Evaluation Process for Eligibility Determination	
ECI (Part C)	TEA (Part B)
<p>The interdisciplinary team, through a review process, will determine that the information represents the child’s current status.</p> <p>Written notification must be provided when a program refuses to initiate services or when a program proposes to discontinue services. (34 CFR § 303.322, 25 TAC §621.23, §621.24)</p>	<p>the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test, or the method of test administration) must be included in the evaluation report. (34 CFR §300.532)</p> <ul style="list-style-type: none"> • No single procedure is used as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child. (34 CFR §300.532) • The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social, and emotional status, general intelligence, academic performance, communicative status, and motor abilities. (34 CFR §300.532) • In evaluating each child with a disability, the evaluation is sufficiently comprehensive to identify all of the child’s special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified. (34 CFR § 300.532) • The LEA uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. (34 CFR § 300.532) • The LEA uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child. (34 CFR § 300.532)

VII. ELIGIBILITY

Eligibility	
ECI (Part C)	TEA (Part B)
<p>A child is determined eligible for ECI services by an interdisciplinary team if the child is birth to three years of age and has one or more of the following:</p> <ul style="list-style-type: none"> • Medically diagnosed physical or mental condition that has a high probability of resulting in developmental delay (including children with auditory or visual impairments); • Delay in one or more of the following areas of development: cognitive, motor, communication, social-emotional, or adaptive skills; or • Atypical development (examples of atypical development may include, but are not limited to: increased or decreased muscle tone, irregular patterns of language or cognition; or problematic emotional or social patterns). <p>Children are ineligible for services beginning on their third birthday.</p> <p>(34 CFR §303.300) (25 TAC §621.23)</p>	<p>The child’s ARD committee makes the determination of whether a child is eligible for special education and related services. (19 TAC §89.1040) To be eligible to receive special education and related services the child:</p> <ul style="list-style-type: none"> • Must be 3-21 years of age; • Must be a “child with a disability” who meets one or more of the defined disabilities in the IDEA (34 CFR §300.7) and in the Texas Commissioner’s Rules on Special Education (19 TAC §89.1040); • Must be determined to have an educational need. <p>The thirteen eligibility categories are:</p> <ol style="list-style-type: none"> 1. Autism 2. Deaf-blindness (eligibility begins at birth) 3. Auditory Impairment (eligibility begins at birth) 4. Emotional Disturbance 5. Mental Retardation 6. Multiple Disabilities 7. Orthopedic Impairment 8. Other Health Impairment 9. Learning Disability 10. Speech Impairment 11. Traumatic Brain Injury 12. Visual Impairment (eligibility begins at birth) 13. Noncategorical Early Childhood <p>In interpreting evaluation data for the purpose of determining if a child is a child with a disability, and the educational needs of the child, each LEA shall draw upon information from a variety of sources including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. Each ARD committee shall ensure that the information obtained from</p>

TEA/ECI Early Transition MOU

Eligibility	
ECI (Part C)	TEA (Part B)
	<p>all of these sources is documented and carefully considered. If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed. (34 CFR §300.535)</p> <p>The LEA must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent. (34 CFR §300.534)</p>

Eligibility Guidance:

- One of the primary functions of providing special education services to a child with a disability is to enable the child to participate and make progress in the general curriculum or appropriate activities. In determining educational need, the ARD committee must consider the impact of the disability on the child's ability to participate and progress in all areas of the preschool curriculum. The Texas Pre-kindergarten Guidelines (for children three and four years of age) include the following content areas as components: Language and Early Literacy, Mathematics, Science, Social Studies, Fine Arts, Health and Safety, Personal and Social Development, Physical Development, and Technology Applications.
- With parental consent, local ECI programs may bring medical information, evaluation and assessment data, and past and current IFSPs to the ARD committee meeting for use in determining eligibility for Part B services, developing the IEP, and determining the need for ESY. However, the ECI documentation should not be the only source of information considered for these purposes. A variety of assessment tools and strategies should be used to gather relevant functional and developmental information about the child, including information provided by the parent.
- Regardless of the child's eligibility for services under Part B, local ECI programs and LEAs should inform parents about, or refer parents to, other community resources that may be appropriate for the family and child.
- For students under the age of three who are determined to have an auditory or visual impairment, refer to the current MOU between the TEA and ECI regarding Auditory Impairments (AI) and Visual Impairments (VI).

VIII. INDIVIDUALIZED FAMILY SERVICE PLAN/EDUCATION PROGRAM PROCESS

Individualized Plan/Program Process	
ECI (Part C)	TEA (Part B)
<p>The Individualized Family Service Plan (IFSP) must be written within 45 days of referral, jointly developed through a face-to-face meeting of the interdisciplinary team, which includes the parents. The IFSP must be based on information gathered during the intake process and the comprehensive evaluation and assessment performed by the interdisciplinary team. The IFSP must include services necessary to enhance the development of the child, the child's ability to function in his or her natural environment and the capacity of the family to meet the child's unique needs and be jointly coordinated with other service providers.</p> <p>The IFSP must be conducted in settings and at times convenient to families and in the native language or mode of communication used by the family unless it is clearly not feasible to do so.</p> <p>Meeting arrangements must be made with, and written notice provided to, the family and other participants in a timely manner to ensure attendance.</p> <p>The contents of the IFSP must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service or withdraw consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.</p>	<p>The Admission, Review, and Dismissal (ARD) committee must develop the Individualized Educational Program (IEP) for each eligible special education student and services must be made available to eligible students on their third birthday.</p> <p>The ARD committee for each child with a disability must include:</p> <ul style="list-style-type: none"> • the parent(s) of the child; • at least one general education teacher of the child if the child is, or may be, participating in the general education environment; • at least one special education teacher of the child, or if appropriate, at least one special education provider of the child; • a representative of the public agency who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities, and is knowledgeable about the general curriculum, and is knowledgeable about the availability of resources of the public agency; • an individual who can interpret the instructional implications of evaluation results; and • at the discretion of the parent, other individuals who have knowledge or special expertise regarding the child, including related service personnel as appropriate. (34 CFR §300.344) <p>The general education teacher of a child with a disability, as a member of the ARD committee, must, to the extent appropriate, participate in the development of the IEP, including assisting in the determination of:</p> <ul style="list-style-type: none"> • Appropriate positive behavioral interventions strategies and supports for the child. • Supplementary aids and services, program modification or supports for school personnel that will be provided for the child. (34 CFR §300.346)

Individualized Plan/Program Process	
ECI (Part C)	TEA (Part B)
<p>The IFSP must include:</p> <ul style="list-style-type: none"> • An integrated summary of all assessments and evaluations including: <ul style="list-style-type: none"> ○ the child’s health/medical history; ○ a description of the child’s functional levels of development in the natural environment in which he/she lives or plays; ○ a description of the settings in which the child lives and plays (natural environments); ○ and who else is in these natural environments; ○ the family’s daily routines, tasks, and responsibilities and the activities and environments the family had identified as natural or normal for their family; ○ needed assistive technology (AT) devices. • A description of the child’s unique strengths and needs in each of the developmental areas; • Statements regarding the family concerns, priorities and resources related to the family’s ability to enhance their child’s development, including the assistance they need in promoting their child’s ability to fully participate in his or her natural environment (with concurrence of the family); • A statement of the major outcomes expected to be achieved for the child and family along with strategies for achieving those outcomes • Criteria procedures and timelines to determine the degree to which progress is being made; • Descriptions of the specific early intervention services necessary for meeting the needs of the child to 	<p>Each LEA shall take steps to ensure that one or both of the parents of a child with a disability are present at each ARD committee meeting or are afforded the opportunity to participate. This includes notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place. (34 CFR §300.345)</p> <p>If neither parent can attend, the LEA shall use other methods to ensure parent participation, including individual or conference telephone calls. (34 CFR §300.345)</p> <p>The LEA shall take whatever action is necessary to ensure that the parent understands the proceedings at the ARD committee meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English. (34 CFR §300.345)</p> <p>The LEA shall give the parent a copy of the child’s IEP at no cost to the parent. (34 CFR §300.345)</p> <p>In developing each child’s IEP, the ARD committee shall consider:</p> <ul style="list-style-type: none"> • The strengths of the child and the concerns of the parents for enhancing the education of their child. (34 CFR §300.346) • The results of the initial evaluation of the child. • In the case of a child whose behavior impedes his or her learning and, or that of others, if appropriate, strategies, including behavioral interventions, strategies, and supports to address that behavior. (34 CFR §300.346) • In the case of a child with limited English proficiency, the language needs of the child as those needs relate to the child’s IEP. (34 CFR §300.346) • In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the ARD committee determines that instruction in Braille or the use of Braille is not appropriate, based on an evaluation of the child’s future needs for

Individualized Plan/Program Process	
ECI (Part C)	TEA (Part B)
<p>achieve the outcomes in the IFSP;</p> <ul style="list-style-type: none"> • The frequency, intensity, location, method of delivering services and method of payment for all services identified in the IFSP; • The name of the service coordinator and dates for starting services; and, • A plan for transitioning when the child leaves the program must be incorporated in the IFSP by the child's second birthday. <p>The decision regarding what services will be provided, which includes type, frequency, intensity, location, and method of delivery, must occur after the development of outcomes and strategies. Services (including assistive technology services), which address the strategies and the frequency, intensity, location and method of delivery, are selected through a collaborative process between the parents and other team members and must be delivered as documented in the IFSP. The program may not list a service as a strategy for reaching an outcome. ECI programs must allow variable degrees of family involvement, as determined by the family. Services cannot be denied based on a family's decision about their level of involvement in the program. The decision to provide a service, including the frequency, intensity, location, and method, may not be based solely on factors such as:</p> <ul style="list-style-type: none"> • Nature or severity of disability; • Age of child; • Availability of sources; • Availability of space; • Administrative convenience; • Family preference; • Payment methodology; or • Service provider preference. 	<p>instruction in Braille or the use of Braille. (34 CFR §300.346)</p> <ul style="list-style-type: none"> • In the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs. Also, consider opportunities for direct instruction in the child's language and communication mode. (34 CFR §300.346) • Whether the child requires assistive technology devices and services. (34 CFR §300.346) • If the ARD committee determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive a free and appropriate public education (FAPE), they must include a statement to that effect in the child's IEP. (34 CFR §300.346) <p>The IEP for each child with a disability must include:</p> <ul style="list-style-type: none"> • A statement of the child's present levels of educational performance including how the child's disability affects the child's involvement and progress in the general curriculum (or appropriate activities). (34 CFR §300.347) • A statement of measurable annual goals, including benchmarks or short-term objectives, related to: <ul style="list-style-type: none"> ○ Meeting the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum (or appropriate activities). ○ Meeting each of the child's other educational needs that result from the child's disability. (34 CFR §300.347) • A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school

Individualized Plan/Program Process	
ECI (Part C)	TEA (Part B)
<p>The IFSP team determines the services a child needs based on the outcomes and strategies listed in the IFSP. (Federal Response Letter dated July 17, 1998)</p> <p>With informed parental consent, early intervention services may start before evaluation and assessment is completed. An interim IFSP must be developed before services begin. Interim services can include services to family members. Immediate child services must be recommended in writing by a physician. The interim IFSP must be developed by the parent, service coordinator, and ECI Program Director. It must include the name of the service coordinator, the early intervention services determined to be needed by the child and family, and must be coordinated with other agencies and persons as needed.</p> <p>The interdisciplinary team must include the following participants when meeting to develop the initial and subsequent annual IFSPs:</p> <ul style="list-style-type: none"> • The parent(s) of the child; • Other family members or childcare provider, as requested by the parent; • Advocate(s) or person(s) outside the family, as requested by the parent; and • A minimum of two fully qualified professionals from different disciplines; • AI or VI teachers who are, or will be, serving children with auditory or visual impairments; • The service coordinator who has been working with the family since the initial referral or who will be responsible for implementing the IFSP and a professional directly involved in conducting the evaluations and assessments; 	<p>personnel that will be provided for the child:</p> <ul style="list-style-type: none"> ○ to advance appropriately toward attaining the annual goals. ○ to be involved and progress in the general curriculum and/or appropriate activities and to participate in extracurricular and other nonacademic activities. ○ to be educated and participate with other children with disabilities and nondisabled children in the activities described in this section. (34 CFR §300.347) <ul style="list-style-type: none"> • An explanation of the extent, if any, to which the child will not participate with nondisabled children in the general class and in the appropriate activities and/or general curriculum. (34 CFR §300.347) • The projected date for the beginning of the services and modifications, and the anticipated frequency, location, and duration of those services and modifications. (34 CFR §300.347) • A statement of how the child's progress toward the annual goals will be measured. (34 CFR §300.347) • A statement of how the child's parents will be regularly informed of their child's progress toward the annual goals and the extent to which that progress is sufficient to enable the child to achieve the goals by the end of the year. Parents should be informed of their child's progress at least as often as parents are informed of their nondisabled children's progress. (34 CFR §300.347) <p>If the ARD committee determines that the student is in need of extended school year (ESY) services, then the IEP must also include goals and objectives for ESY services from the student's current IEP. (19 TAC §89.1055)</p> <p>For students with autism/pervasive developmental disorders, information about the following shall be</p>

Individualized Plan/Program Process	
ECI (Part C)	TEA (Part B)
<ul style="list-style-type: none"> • Early Head Start/Migrant Head Start Staff (EHS/MHS), when the family is jointly served by ECI and EHS/MHS, with parental consent. <p>The IFSP must be reviewed at least every six months. Reviews and changes do not necessarily require the presence of the complete team.</p> <p>(34 CFR §§303.342, 303.343, 303.344, 303.345) (25 TAC §621.23)</p>	<p>considered and, when needed, addressed in the IEP:</p> <ul style="list-style-type: none"> • Extended educational programming; • Daily schedules reflecting minimal unstructured time; • In-home training or viable alternatives; • Prioritized behavioral objectives; • Parent training; and, • Suitable staff-to-student ratios. (19 TAC §89.1055) <p>The child’s IEP must be reviewed periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and to revise the IEP as appropriate to address:</p> <ul style="list-style-type: none"> • Any lack of expected progress toward the annual goals, and in the general curriculum (or appropriate activities); • The results of any reevaluation; • Information about the child provided to, or by, the parents; • The child’s anticipated needs; • Any other matters. (34 CFR §300.343) <p>A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child’s special education services. The LEA must respond to the parent’s request either by holding the requested meeting or by requesting assistance through the Texas Education Agency mediation process. The LEA should inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. (19 TAC §89.1045)</p>

Individualized Family Service Plan/Education Program Process Guidance:

IFSP:

- Concerns, Priorities, and Resources: Programs must gather and document information regarding family concerns, priorities, and resources. Parents may choose to include or exclude this information in the child's IFSP. The family must determine the most appropriate manner of recording their concerns, priorities, and resources.
- The IFSP team must first identify the natural supports and resources present in the child's environment and activities in the child's daily routine that offer opportunities for the child to learn new skills. The IFSP team must next consider who can "teach" the child the new skills (i.e., parents, peers, siblings, other caregivers, professionals) and whether the parents or other caregivers need assistance facilitating the child's learning the new skill.
- Service Location: Only when early intervention cannot be achieved satisfactorily for the infant or toddler in the natural environment can the program consider the provision of early intervention services for any child in a location other than the child's natural environment. The program must show sufficient documentation to support the team's decision that the child's outcomes could not be met by providing the service in the child's natural environment even with supplementary supports that could be provided by ECI. (See also AI/VI MOU)
- Method of Payment: ECI is the payer of last resort. All other third-party resources must be accessed first. Accessing private insurance requires written parental consent.
- The IFSP must be fully reviewed with the parent prior to obtaining their consent and must be signed by the parents to designate their consent to services. All team members present at the meeting must sign the IFSP. The IFSP must be reviewed and signed by team members who conducted evaluations or will be providing direct services and were not able to attend the meeting.

IEP:

- The LEA must provide transportation as a related service if it is required to assist the child with a disability to benefit from any special education and other related services. These services could include, but are not limited to, speech/language therapy and/or any other direct special education services, occupational therapy, physical therapy, and/or any other related services. This includes transporting a preschool-aged child to the site at which the public agency provides special education and related services to the child, if that site is different from the site at which the child receives other preschool or day care services.
- For children who are not yet in an early childhood setting, the general education teacher, for ARD committee attendance purposes, could be someone who is familiar with the routines, schedule, environment, curriculum and appropriate activities for preschool children. For children already in an early childhood setting, the most

appropriate general education teacher would be the one who is currently providing services (i.e. Head Start teacher, Child Care provider, etc.).

- Progress reporting determined by the ARD committee includes:
 - The method of reporting, which can include but is not limited to face-to-face conference, portfolio assessment, narrative report, checklist, anecdotal records and teacher-developed assessment; and
 - The frequency of reporting which at minimum must be at least as often as non-disabled children but can be more frequent if deemed necessary by the ARD committee.
- In order to facilitate IEP development and consideration of ESY services, the IFSP, medical records, evaluation, assessment data and other records can be provided to the LEA with parental consent.

IX. NATURAL ENVIRONMENTS/LEAST RESTRICTIVE ENVIRONMENT

Natural Environments/Least Restrictive Environment	
ECI (Part C)	TEA (Part B)
<p>To the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate. (34 CFR §303.12)</p> <p>The program must ensure that the provision of early intervention services for any ECI child occurs in a natural environment (where the child lives, learns, plays, and spends time on a daily basis).</p> <p>Only when early intervention cannot be achieved satisfactorily for the infant or toddler in the natural environment can the program consider the provision of early intervention services for any child in a location other than a child’s natural environment. The program must show sufficient documentation to support the team’s decision that the child’s outcomes could not be met by providing the service in the child’s natural environment even with supplementary supports that could be provided by ECI. The justification must be reconsidered at least every six months, documented in the IFSP and include:</p> <ul style="list-style-type: none"> • An explanation of how and why the IFSP team determined that the child’s outcomes could not be met if the services were provided in the child’s natural environment with supplementary supports provided by ECI. • How services provided in this location will be generalized to support the child’s ability to function in his/her natural environment. • A plan, with timelines, and the supports necessary to allow the child’s outcomes to be satisfactorily achieved in his/her natural environment. 	<p>Each LEA shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (34 CFR §300.551)</p> <p>In determining the educational placement of a child with a disability, including a preschool child with a disability, each LEA shall ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the continuum of placement options. (34 CFR §300.552)</p> <p>The child’s placement:</p> <ul style="list-style-type: none"> • Must be determined at least annually; • Must be based on the child’s IEP; • Must be as close as possible to the child’s home. (34 CFR §300.552) <p>Unless the IEP of a child with a disability requires some other arrangement, the child must be educated in the school that he or she would attend if nondisabled. (34 CFR §300.552)</p> <p>In selecting the LRE, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs. (34 CFR §300.552)</p> <p>A child with a disability shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum. (34 CFR §300.552)</p> <p>Each LEA shall ensure:</p> <ul style="list-style-type: none"> • That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. (34 CFR §300.550)

Natural Environments/Least Restrictive Environment	
ECI (Part C)	TEA (Part B)
<p>If the parents decide to enroll their child in a setting other than the one specified in the IFSP, ECI funds may not be used to provide services in that setting.</p> <p>(Federal Response Letter dated, July 17, 1998)</p>	<ul style="list-style-type: none"> • Placements in special classes, separate schooling or other removal from the general educational environment occurs only if the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR §300.550) <p>Parents of an eligible child, age three or four, shall have the right to dual enroll their child in both public school and private school beginning on the child's third birthday and continuing until the end of the school year in which the child turns five subject to the following:</p> <ul style="list-style-type: none"> • Child's ARD committee shall develop an IEP designed to provide the child with a FAPE in the LRE appropriate for the child. • From the IEP, the parent and the LEA shall determine which special education and/or related services will be provided to the child and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment and the policies and procedures of the LEA. • For students served under the dual enrollment provision, the LEA shall be responsible for employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the LEA and shall remain the property of the LEA. (19 TAC §89.1096) <p>**DUAL ENROLLMENT PROVISIONS WILL END ON JUNE 30, 2004**</p>

Natural Environments/Least Restrictive Environment Guidance:

- Natural Environments: Only when early intervention cannot be achieved satisfactorily for the infant or toddler in the natural environment can the program consider the provision of early intervention services for any child in a location other than the child's natural environment. The program must show sufficient documentation to support the team's decision that the child's outcomes could not be met by providing the service in the child's natural environment even with supplementary supports that could be provided by ECI. (See also AI/VI MOU)
- Placement in the LRE requires an individual decision, based on each child's IEP, and based on the intent of the IDEA that children with disabilities be educated in general classes with appropriate supports and services. The IDEA regulations have always required that placement decisions be based on the individual needs of the child with a disability, including preschool children, and have always prohibited categorical decision-making.
- The full continuum of alternative placements, including integrated placement options, such as community-based settings with typically developing age peers, must be available to preschool children with disabilities.
- A child who turns five years of age on or before September 1st is not eligible for the dual enrollment provision in 19 TAC § 89.1096.

X. PARENT DISPUTE RESOLUTION/COMPLAINTS

From time to time, disputes may arise between a parent and an ECI program or LEA related to the provision of early intervention or special education services. The disputes may involve the identification, assessment or evaluation of the child, the provisions of services or therapies, educational placement, or any other matter concerning the child or student and the program or school. Parents and ECI programs or LEAs are encouraged to resolve concerns at the local level with the ECI Program Director and/or the LEA Special Education Director to avoid the need for more formal dispute resolution mechanisms.

Technical assistance

For parents of children who are under age three, technical assistance may be obtained from the ECI Program Consultant at the ECI state office or through the ECI Care Line at 1-800-250-2246. For families of children aged three through five, the ESC Preschool Specialists at the regional education service centers provide technical assistance. The ESC staff should not provide information in lieu of LEA personnel, but rather in support of and in conjunction with the LEA. The ECI and ESC staff should provide a parent with strategies and/or support regarding communication with their program/LEA. The ECI or ESC staff should also serve as facilitators in communication between parents and programs/LEAs.

Notice of Rights

Parents must receive notice at least once a year, in their primary language, of their rights to file a complaint or request mediation or an administrative due process hearing.

Mediation

When assistance is needed due to a disagreement between the parent and the local program/LEA, mediation is available at no cost to the parent or the program/LEA. Mediation is an informal, voluntary process during which an impartial mediator helps parents and programs or LEA who are experiencing conflict reach a suitable agreement about the services or special education program for the student. Bilingual mediations are available.

The parent or the program or school may request mediation by submitting a written request to:

Mediation Requests	
ECI (Part C)	TEA (Part B)
ECI Assistant Commissioner Early Childhood Intervention 4900 N. Lamar Austin, Texas 78751 <u>ECI Care Line</u> 1-800-250-2246	Texas Education Agency Division of School Governance, EEO, and Complaints Management The Special Education Unit 1701 North Congress Avenue Austin, Texas 787101-1494 <u>Parent Information Line</u> 1-800-252-9668

COMPLAINTS

If a parent believes the ECI program or LEA has violated federal or state requirements related to early childhood intervention or special education, the parent may wish to first discuss the concerns informally with ECI or LEA staff. If a parent is unclear whether they want to file an official complaint, they may call the ECI state office at 1-800-250-2246 or the TEA Parent Information Line at 1-800-252-9668.

If a parent decides that they do wish to file a complaint about an ECI program or LEA, the parent must make a written request (see address below) that states the violations the parent believes have occurred and the facts on which the complaint is based. The complaint must be signed. Upon receipt of the complaint, if appropriate, the ECI or TEA will conduct an independent investigation. As part of the investigation, the parent will be given an opportunity to provide additional information. A written decision, including findings of fact and conclusions, will be issued within 60 calendar days after the complaint is filed.

Complaints should be addressed to:

Complaints	
ECI (Part C)	TEA (Part B)
ECI Assistant Commissioner Early Childhood Intervention 4900 N. Lamar Austin, Texas 78751 <u>ECI Care Line</u> 1-800-250-2246	Texas Education Agency Division of School Governance, EEO, and Complaints Management The Special Education Unit 1701 North Congress Avenue Austin, Texas 787101-1494 <u>Parent Information Line</u> 1-800-252-9668

XI. FINANCIAL RESPONSIBILITY

Financial Responsibility	
ECI (Part C)	TEA (Part B)
<p>ECI is responsible for providing or accessing all services listed on the IFSP service grid as determined by the interdisciplinary team. ECI is the payer of last resort, so all other resources (such as Medicaid, Chip, and private insurance with family consent) must be accessed first. Child Find for children birth through two is a shared responsibility with the TEA. AI/VI services are provided by the LEA as determined by the interdisciplinary team and documented on the IFSP. (refer to the AI/VI MOU). LEAs may provide special education services to a child prior to the child’s third birthday. ECI is responsible for providing all other required services until the child turns three.</p>	<p>The TEA is responsible for ensuring a free and appropriate public education (FAPE) for eligible children with disabilities, ages 3-21, as determined by the multi-disciplinary team as documented in the child’s IEP. Child Find for children birth through two is a shared responsibility with ECI. AI/VI services are provided by the LEA as determined by the interdisciplinary team and documented on the IFSP. (refer to the AI/VI MOU) LEAs may provide special education services to a child prior to the child’s third birthday. ECI is responsible for providing all other required services until the child turns three.</p>

Financial Responsibility Guidance:

- In some instances, LEAs may offer to provide special education services to children prior to the child’s third birthday. Should parents choose to accept Part B special education services for their child before the child turns three, an IFSP should be developed in conjunction with the LEA personnel. Special education services would be listed on the IFSP service grid with the LEA listed as the service provider and payer. ECI may not duplicate services provided by the LEA. All other services the child needs, as determined by the interdisciplinary team, are provided by ECI.

XII. DISPUTE RESOLUTION

Local Agency Disputes:

Disputes concerning implementation of this MOU between LEAs and ECI programs shall first be resolved at the local level. The specific issues involved in the dispute and possible solutions shall be identified and referred to the local officials authorized to make the decisions necessary to resolve the dispute either through cooperative decision-making or through mediation, in accordance to the respective established policies and procedures of agencies involved. If local resolution is not possible after a reasonable time period (not to exceed 45 days unless the involved parties agree otherwise), the affected LEA and/or local ECI program shall refer the interagency dispute to the preschool specialist at the regional education service center and/or the ECI state office program consultant for further negotiations towards a mutually agreeable resolution. Technical assistance may be obtained from the ECI state office program consultant and/or the ESC preschool specialists to assist in developing strategies, clarifying local program roles and responsibilities, and interpreting state and federal rules as well as local policies. LEAs and/or local ECI programs referring a dispute shall identify the:

- a. nature of the dispute;
- b. resolutions agreed upon at the local level;
- c. issues that remain unresolved at the local level; and
- d. local contact person(s).

State Agency Disputes:

Disputes concerning implementation of this MOU between ECI and TEA must first be resolved at the staff level (if no local agency is involved) or at the local level as set forth above. The appropriate state officials shall meet to seek resolution of the dispute.

Mediation:

If the chief executive officers of DARS and TEA determine that a dispute cannot be resolved at their level, DARS and TEA shall pursue resolution through the use of mediation pursuant to the Governmental Dispute Resolution Act, Chapter 2009, Government Code. The mediator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the mediator. The costs of mediation shall be borne equally by DARS and TEA.

Binding Arbitration:

If ECI and TEA fail to reach agreement through mediation pursuant to the Governmental Dispute Resolution Act, the following procedure shall be followed:

- (a) ECI and TEA shall each select one impartial third party pursuant to Section 2009.053, Government Code.
- (b) The impartial third parties selected by ECI and TEA shall jointly select another impartial third party, who must be a person eligible to serve as impartial third party pursuant to Section 2009.053, Government Code. The person selected shall be the arbitrator of the dispute.

- (c) The arbitrator shall arbitrate the dispute pursuant to Section 154.027, Texas Civil Practice and Remedies Code. The arbitrator shall make such arrangements and decisions respecting the conduct of the proceedings as needed in the sole discretion of the arbitrator. The costs of arbitration shall be borne equally by ECI and TEA. The parties to this MOU hereby stipulate in advance that the decision of the arbitrator shall be binding and enforceable against the both parties pursuant to Section 154.027(b), Texas Civil Practice and Remedies Code.

XIII. MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) will be reviewed annually by the signatory agencies. This MOU may be expanded, modified, or amended at any time upon the mutual agreement of the Texas Interagency Council on Early Childhood Intervention (ECI) and the Texas Education Agency (TEA).

This MOU is effective upon signature by all parties, and shall continue in effect until rescinded by any of the participating agencies upon the giving of at least thirty (30) days written notice to the other agency.

A periodic review of this MOU shall be conducted by the participating local agencies to determine whether the functions of each agency are being properly executed.

Shirley J. Neeley
Commissioner of Education
Texas Education Agency

Terry Murphy
Commissioner
Department of Assistive and
Rehabilitative Services

Date

Date

XIV. DEFINITIONS

Admission, Review and Dismissal (ARD) Committee: The individualized education program (IEP) team that is comprised of a group of individuals that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

Appropriate Activities: Appropriate activities are the practices, curriculum, and methodology utilized to support children’s learning and development of abilities and milestones, which are critical to later school success and life skills. With respect to preschool-aged children, the term “appropriate activities” include those activities that reflect achievement of developmental abilities (i.e. skipping) or milestones (i.e., combining 3 words to convey meaning) used to benchmark progress of typically developing children of the same age.

Assessment (Part C): The ongoing procedures used by appropriate qualified personnel throughout the period of a child’s eligibility to identify:

- a. The child’s unique needs and strengths;
- b. The family’s concerns, priorities and resources and identification of supports and services necessary to enhance developmental needs of the child; and
- c. The nature and extent of intervention services needed by the child and the family in order to resolve the determinations.

Assistive Technology Device: Any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

Assistive Technology Service: A service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device.

Child Find (Part C): Activities and strategies designed to locate and identify, as early as possible, infants and toddlers with developmental delay

Child Find (Part B): Child find refers to ongoing activities undertaken by the LEAs to locate, identify and evaluate all children residing in the district who are suspected of having disabilities under Part B of IDEA so that a free appropriate public education (FAPE) can be made available to all eligible children

Community Resources (Part C): Services available outside the ECI program through such entities as civic, educational, health, social service, religious, habilitative and benevolent organizations.

Community Resources (Part B): Resources/services, in the community, that are identified and may be utilized in conjunction with the local education agency policies and procedures.

Days (Part C): Calendar Days. Calendar days include weekends and holidays and summer.

Days (Part B): Calendar Day and School Day. Calendar day includes weekends, holidays, and summer. School day means any day, including a partial day, which children are in attendance at school for instructional purposes.

Developmental Delay (Part C): A significant variation in normal development in one or more of the following areas, as measured and determined by appropriate diagnostic instruments, or procedures administered by an interdisciplinary team, or by informed clinical opinion: cognitive development; physical development (including vision and hearing, gross and fine motor skills and nutritional status); communication development; social-emotional development; adaptive or self-help skills.

Early Intervention Services (Part C): Services provided to meet the developmental needs of eligible children and families as designated in the Individuals with Disabilities Act (IDEA, Part C) Part C services, which are for children birth to three, provide opportunities for infants and toddlers to achieve their potential.

Early Intervention Specialist (Part C): Staff employed by an Early Childhood Intervention (ECI) program to provide services to children and families. An Early Intervention Specialist (EIS) must have a bachelor's degree in a qualifying field and complete the ECI Competency Demonstration System, or, have a bachelor's degree with 18 hours of college credit that is directly related to early intervention and complete the Competency Demonstration System.

Education Service Center (ESC): Refers to an educational service agency that provides leadership, training, and technical assistance in the area of special education for children with disabilities in accordance with the Texas Education Agency focus on increasing student achievement. ESCs work with the TEA to promote and implement leadership and information dissemination activities to school districts, charter schools, parents, and communities.

Evaluation (Part B): The process of gathering relevant functional and developmental information about the child, including information provided by the parent, to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

Evaluation (Part C): The procedures used by appropriate qualified personnel to determine a child's initial and continuing eligibility for ECI services.

Free Appropriate Public Education (FAPE): the entitlement of every child with a disability under IDEA to receive special education and related services that a) have been provided at public expense, under public supervision and direction, and without charge; b) meet the standards of the SEA; c) include an appropriate preschool, elementary school, or secondary school education in the state; and d) are provided in conformity with an individualized education program (IEP).

Family Educational Rights and Privacy Act (FERPA): A federal law which gives parents certain access and privacy rights regarding their child's early intervention and educational records.

Full continuum of services (Part B): Each LEA shall have a variety of placement options available to meet the needs of children with disabilities for special education and related services. The continuum should include integrated placement options, such as community-based settings with typically developing peers (i.e. childcare/private preschool programs, home, Head Start agencies) for preschool children with disabilities.

Full Year Services (Part C): ECI programs must make comprehensive services available for 48 weeks of the calendar year.

General Education Curriculum (Part B): A series of planned instruction that is coordinated and articulated in a manner designed to result in the achievement by students of specific knowledge and skills and the application of this knowledge; and, is the same curriculum that is used with nondisabled children/students. IDEA regulations equate the term “appropriate activities” to the general curriculum when discussing preschool-age children.

Head Start: A program funded under Title V of the Economic Opportunity Act of 1964, as amended, and carried out by a Head Start agency or delegate agency, that provides ongoing comprehensive child development services to eligible children and their families

Individuals with Disabilities Education Act (IDEA): The federal law that contains requirements for serving eligible children. Part C of IDEA refers to the Early Intervention Program for Infants and Toddlers with Disabilities (0-2). Part B of IDEA refers to Assistance to States for the Education of Children with Disabilities (ages 3-21).

Interdisciplinary Team (Part C): A minimum of two professionals from different disciplines and the child’s parent (s) who meet to share evaluation information, determine eligibility, assess needs, and to develop the IFSP. The team must include the service coordinator who has been working with the family since the initial referral or the person responsible for implementing the IFSP and a person directly involved in conducting the evaluations and assessments or providing the service. ECI uses the term “interdisciplinary” to replace the term “multidisciplinary” used in federal law and regulation.

Least Restrictive Environment (LRE): Generally, the appropriate placement for a child with a disability that most closely approximates where the child, if nondisabled, would be educated and which provides access to the general curriculum or appropriate activities to the maximum extent possible.

Local Education Agency (LEA): The public schools (including charter schools) operating in accordance with state statutes, regulations, and policies of the Texas Education Agency.

Memorandum of Understanding: A document signed by authorized representatives of at least two agencies outlining mutually agreed upon responsibilities to perform certain duties under specified conditions. Memoranda of Understandings include Interagency Agreements and Memoranda of Agreement.

Multidisciplinary Team (Part C): The involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities and the development of the IFSP.

Natural Environments (Part C): Settings that individual families identify as natural or normal for their family, including the home, neighborhood and community settings in which children without disabilities participate. To the maximum extent appropriate to the needs of the child, early intervention services must be provided in Natural Environments.

Notification: Written information (certain personally identifiable information) provided by ECI to inform the designated LEA Child Find contact of children aged two or over who are currently receiving Part C services. Parental consent is not required for notification.

Personally Identifiable Information: Information which includes:

- (A) The name of the child;
- (B) The name of the child's parent, or other family member;
- (C) The address of the child, parent, or other family member;
- (D) A personal identifier, such as the child's or parent's social security number; or
- (E) A list of personal characteristics or other information that would make it possible to identify or trace the child, the parent, or other family member, with reasonable certainty.

Parent: A natural or adoptive parent of a child, a guardian, a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare), or an appointed surrogate parent. Term does not include state if child is ward of state.

Preschool Program for Children with Disabilities—PPCD (Part B): Public school services for children between the ages of three and five who qualify for special education services.

Preschool Specialist/Consultant (Part B): The person(s) in the Regional Education Service Center responsible for leadership, technical assistance, training, and support for personnel involved with the Preschool Program for Children with Disabilities.

Procedural Safeguards (Part B): The rights provided to families and children in need of special education and related services in Part B of IDEA.

Procedural Safeguards (Part C): The rights provided families and children eligible to receive early intervention services under Part C of IDEA.

Referral: Information sent from ECI to the LEA about children enrolled in ECI who may be potentially eligible for Part B services. Parental consent is required for referral.

Related Services: Generally, services required to assist a child with a disability to benefit from special education. Examples of related services include but are not limited to transportation, speech pathology, physical therapy, occupational therapy, social work services, interpreting or counseling services.

Service Coordination (Part C): Service coordination services are assistance and services provided by a service coordinator to an eligible child and the child's family that is designed to assist and empower the family in enhancing the child's development in accordance with the rights, provisions and procedural safeguards of IDEA, Part C.

Service Coordinator (Part C): A staff person who is assigned to a child/family who is the single contact point for families to receive the rights, procedural safeguards, and services authorized by rules and ECI policy and procedures. The Service Coordinator facilitates the transition process to ensure a smooth and effective transition.

Supplemental Aids and Services: Aids, services, and other supports that are provided in general education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate.

Texas Administrative Code (19 TAC): The code containing rules and regulations adopted by a state agency under the agency's statutory rule-making authority.

Texas Education Code: The volume of Texas statute that contains the law establishing the Texas Education Agency and the structure and function of the Texas public school system.

Texas Human Resources Code: The volume of Texas statute that contains the law establishing the Texas Interagency Council on Early Childhood Intervention and the structure and function of the Texas ECI Program.

Transdisciplinary Team: Professionals from various disciplines who work together cooperatively by educating one another in the skills and practice of their team so that one team member can act as the single agent for carrying out services with a designated child or parent.

Transition: The process for a family and eligible child of moving from one service, location, or program to another. This process includes discussions with, and training of, parents regarding future placements and other matters related to the child's transition' procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting' and with parental consent, the transmission of information about the child to a program into which the child might transition to ensure continuity of services, including evaluation and assessment information required and copies of IFSPs that have been developed and implemented.