

XIV. INTERAGENCY AGREEMENTS AND RESOLUTION OF DISPUTES

A. Interagency Agreements

1. POLICIES

- a. The State Lead Agency (DMHMRSAS) has entered into formal interagency agreement with other state-level agencies involved in Virginia's early intervention program. The primary agreement, signed by the participating State agencies, with its addendum (available at www.infantva.org), meets the requirements in paragraphs (b) through (d) of this section. (34 CFR 303.523(a))
- b. The State Lead Agency has included in the agreement the financial responsibility of the respective agency(ies) for paying for early intervention supports and services (consistent with Virginia law and the requirements of Part C).
- c. The State Lead Agency has included in the agreement reference to the use of procedures for resolving disputes. (In this section see B - Resolution of Interagency Disputes, 1 - Policies, a.)
- d. The State Lead Agency has included in the agreement any additional components necessary to ensure effective cooperation and coordination among all agencies involved in Virginia's early intervention program, including Early Head Start programs and early education and child care programs.
- e. The State Lead Agency ensures the terms and conditions of the agreement are consistent with the terms and conditions of the State's agreement under Part B, where appropriate. (20 USC 1440 (b)(1)(B))
- f. The State Lead Agency requires the development of local interagency agreements in accordance with Part C policies and procedures and in compliance with the most current terms of the Local Contract for Continuing Participation in Part C, with at least those local participating agencies/providers who do not receive Part C funds but do have a responsibility in the local Part C system.

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Deleted: The Lead Agency has an agreement with the Virginia Department of Education which addresses areas of joint responsibility between the two agencies (included in Appendix K)

Deleted: ¶ The Lead Agency requires the development of local interagency agreements in accordance with Part C policies and procedures.

Deleted: The Lead Agency requires that Part C early intervention services are provided only by local participating agencies/providers. Local participating agencies/providers are those agencies/providers who have agreed to comply with Part C requirements in the provision of early intervention services through a local interagency agreement, contract, or memorandum of understanding.

Deleted: <#>The participating State agencies signing the agreements have agreed to send copies of the State interagency agreement and additional letters, and update information as necessary, to local and regional counterparts delineating support and mechanisms to enhance local participation and cooperation.¶

Deleted: Local interagency agreements include language that ensures that local participating agencies/ providers comply with Part C requirements in the provision of early intervention services.

2. PROCEDURES

- a. Local lead agencies, with the advice and assistance of the local interagency coordinating councils (LICCs), facilitate the participation and involvement of all local participating agencies/providers in the development of local interagency agreements in accordance with Part C policies and procedures and in compliance with the most current terms of the Local Contract for Continuing Participation in Part C.
- b. Local interagency agreements include language that ensures that local participating agencies/ providers who do not receive Part C funds but do have a responsibility in the local Part C system comply with Part C requirements in the provision of early intervention supports and services.
- c. Local lead agencies shall monitor compliance with the provisions of local interagency agreements and shall review local interagency agreements at least annually, revising as necessary to ensure that contents are in accordance with Part C policies and procedures, the current terms of the Local Contract for Continuing Participation in Part C, and current local needs and practice.

B. Resolution of Interagency Disputes

1. POLICIES

- a. The State Lead Agency has included in the interagency agreement among participating state agencies involved in Part C procedures for resolving disputes as follows:

- (1) ~~Procedures for achieving a timely resolution of intra- and interagency disputes about payments for a given support or service, or disputes about other matters related to Virginia's early intervention program. Procedures include a mechanism for making a final determination that is binding upon the agencies involved;~~
- (2) ~~Procedures that permit the agency to resolve its own internal disputes (based on the agency's procedures) so long as the agency acts in a timely manner; and~~
- (3) ~~Include the process that the State Lead Agency will follow in achieving resolution of intra-agency disputes, if a given agency is unable to resolve its own internal disputes in a timely manner.~~

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b. The State Lead Agency resolves individual state-level intra- or interagency disputes, in accordance with the procedures below.

- (1) During the pendency of a dispute, the Governor, who is responsible for assigning financial responsibility among the appropriate agencies, will:
 - (a) Assign financial responsibility to an agency, subject to the provisions in B.1.b(2) of this section; or
 - (b) Assign the State Lead Agency to pay for the support or service, in accordance with the "payor of last resort" provisions in §303.527.

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(2) If, during the State Lead Agency's resolution of the dispute, the Governor determines that the assignment of financial responsibility under B.1.b.(1)(a) of this section was inappropriately made, the:

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- (a) Governor reassigns the responsibility to the appropriate agency; and
- (b) The State Lead Agency makes arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

(3) If a public agency fails to provide or pay for the supports and services pursuant to the interagency agreement in A.1.a:

- (a) The State Lead Agency shall provide or pay for the provision of such supports and services to the child. (20 USC 1440(2))
- (b) The State Lead Agency is authorized to claim reimbursement for the supports and services from the public agency that failed to provide or pay for such supports and services and such public agency shall reimburse the State Lead Agency pursuant to the terms of the interagency agreement in A.1.a.

(20 USC 1440(3))

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(4) To the extent necessary to ensure compliance with its action in B.1.b(2) of this section, the State Lead Agency:

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- (a) Refers the dispute to the Governor; and
- (b) Implements procedures to ensure that supports and services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies and/or other participating agencies/providers in accordance with §303.525. (34 CFR 303.524)

(5) All local participating agencies/providers through procedures established by local lead agencies must make every effort to resolve intra- and inter-agency disputes at the local level, pursuing all avenues of appeal, prior to initiating a state-level interagency dispute.

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2. PROCEDURES

a. Local lead agencies develop and implement policies and procedures for resolution of local intra- and inter-agency disputes. These local policies and procedures must include steps that address the following:

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- (1) All local participating agencies/providers must initiate or continue to provide supports and services as listed on the IFSP pending resolution of a dispute.

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- (2) All local participating agencies/providers must make every effort to resolve disputes at the local level by following dispute procedures established by the agency(ies) to whom the dispute pertains. This includes pursuit of all appeal procedures available including appeal to the respective State agency if such procedures are available.
- (3) If the local dispute is between local public agencies and cannot be resolved at the local level within ninety (90) days following the dispute and appeal procedures, a written request to initiate a state-level interagency dispute may be filed with the State Lead Agency. The written request must include a written summary of all steps taken to resolve the dispute and a written summary of the findings.
- (4) If the local dispute involves a private agency/provider, then either party to the dispute may file an administrative complaint (see Component XI).
- b. For disputes that initiate at the state level, the following procedures are followed:
 - (1) Participating State agencies must make every effort to resolve their own disputes according to the procedures within their agency. If a dispute involves two or more state agencies, resolution is reached through discussion between the state agencies involved.
 - (2) If participating State agencies are unable to resolve disputes in a timely manner, a State agency may forward a written request to the State Lead Agency to initiate a state-level interagency dispute. The written request must include a written summary of the steps taken to resolve the interagency dispute and a written summary of findings.
- c. Upon receipt of a written request from a local or State participating agency/provider to initiate an interagency dispute, the following steps are taken:
 - (1) The State Lead Agency with the assistance of the Office of the Attorney General reviews all materials submitted to determine if the request warrants the initiation of the state-level interagency dispute process or if the dispute needs to be resolved through other channels
 - (2) If the State Lead Agency determines the dispute needs to be resolved through the state-level interagency dispute process, the dispute is referred to the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services (the State Lead Agency), or his designee, for resolution.
 - (3) If the dispute cannot be resolved by the State Lead Agency, then the dispute is referred to the Secretary of Health and Human Resources and/or the Secretary of Education for resolution.
 - (4) If the dispute cannot be resolved by the Secretary(ies) within 30 days, the dispute is referred to the Governor.
 - (5) When resolutions of disputes are reached at any level, as appropriate, resolutions are put in writing and are binding on all parties.

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