

**Memorandum of Agreement
Between Participating Agencies
Providing Early Intervention Services in South Carolina
Under Part C of IDEA**



A Collaborative Effort Among

Department of Disabilities and Special Needs
Department of Health and Environmental Control
Department of Health and Human Services
Department of Mental Health
Department of Social Services
School for the Deaf and the Blind
State Department of Education

March 2004

Memorandum of Agreement

This Memorandum of Agreement (MOA) is made this thirty-first day of March, 2004 by and between the South Carolina Departments of Health and Environmental Control; Disabilities and Special Needs; Education; Health and Human Services; Mental Health; Social Services; and the South Carolina School for the Deaf and the Blind (collectively referred to as Participating Agencies) for the benefit of infants and toddlers, ages birth to 3 years, residing in South Carolina who have developmental delays or disabilities, or have conditions associated with a high probability of developmental delay as determined by the state's Part C Lead Agency (DHEC) under Code of Federal Regulations (CFR) 303.300 (hereinafter referred to as eligible children) and their families.

Authority for Agreement

Federal laws require cooperation among State agencies responsible for the administration and/or supervision of both Title V (Maternal and Child Health) and Title XIX (The Medical Assistance Act or Medicaid) of the Social Security Act. Additionally, as a condition of receiving Federal funds under Part C of the Individuals with Disabilities Education Act (IDEA), States must ensure cooperation among State agencies involved in delivering Part C services to eligible children and their families. An interagency system of service delivery also is required by the South Carolina Infants and Toddlers with Disabilities Act (Title 44, Article 21, Chapter 7 of the revised South Carolina Code of Laws, hereinafter referred to as the South Carolina Act). The Federal and State laws and regulations that provide authority and requirements for this MOA are listed in Appendix 1.

WHEREAS, authority exists in law and Federal and/or State funds are appropriated to Participating Agencies receiving Federal Part C or State BabyNet funding for the benefit of infants and toddlers with disabilities;

WHEREAS, the South Carolina Department of Health and Environmental Control (DHEC) is the designated Lead Agency for the administration of the Part C System under IDEA and is responsible for administering Part C of the Individuals with Disabilities Education Act (IDEA) (hereinafter referred to as "Part C"). The South Carolina statewide interagency system is referred to as BabyNet.

WHEREAS, the South Carolina Department of Education (SDE) is a Participating Agency to this MOA with regard to Part B, transition services and Child Find only. It is not a recipient of Part C funds and is, therefore, not governed by Part C regulations or policies, except as related to transition services and Child Find. References to Participating Agencies in the MOA outside of the Part B responsibilities do not include the SDE or local school districts.

NOW THEREFORE, the Participating Agencies agree to all of the following sections of this MOA and its Appendices:

I. Statement of Common Purpose

This MOA among the Participating Agencies documents the understandings and commitments of the Participating Agencies to meet the statutory and regulatory requirements and intents of Part C of the Individuals with Disabilities Education Act (IDEA), Public Law 105-17 and the South Carolina Act.

The purpose of this MOA is to ensure the coordination of a statewide, comprehensive, interagency system of early intervention services for all eligible children in accordance with Federal and State laws and the South Carolina Part C grant application for Part C funding to the Office of Special Education Programs (OSEP), United States Department of Education (USDE).

II. Mutual Objectives

It is agreed by the Participating Agencies receiving Federal Part C or State BabyNet funding to this MOA that each agency shall support, within each agency's authority, the attainment of the following mutual objectives at the State and local levels through contracts, grants, policies and procedures to provide the following:

- Products and processes that satisfy the procedural safeguards requirements of Federal and State statutes and regulations.
- A collaborative, community-based, interagency child identification process to locate, evaluate, assess and identify all infants and toddlers who may be eligible for Part C early intervention services;
- Comprehensive service coordination to ensure that families of eligible children receive the services for which they are eligible;
- An Individualized Family Services Plan (IFSP) for eligible infants and toddlers with disabilities and their families;
- Appropriate and necessary services in the context of the family's everyday routines, activities and places (per 34 CFR 303.12(b)) as identified on the IFSP utilizing available public and private funding sources; and
- Effective and efficient transition from services under Part C to services under Part B of IDEA or other community-based programs.

III. Intended Outcomes

The intended outcomes of this MOA meet the intent of each agency's responsibility and authority as well as the requirements of Part C:

- To enhance the development of eligible infants and toddlers with disabilities and the capacity of their families to support their development;
- To assist in improving the well-being, safety and family permanency of eligible infants and toddlers with disabilities;
- To increase access to early intervention supports and services and to increase family satisfaction with those supports and services;
- To empower families through information and support to participate fully in decision-making at personal and policy levels;

- To assist families in understanding their right to decline or accept the early intervention services determined to be appropriate through the IFSP process;
- To support the participation of eligible infants and toddlers and their families in inclusive and culturally relevant community settings and activities; and
- To assist families in accessing comprehensive, coordinated, culturally appropriate services.

IV. Mutual Agreements

In order to attain the above common purpose, mutual objectives, and intended outcomes, Participating Agencies receiving Federal Part C or State BabyNet funding agree, within each agency's authority, to the following actions.

A. General Agreements

- Designate at least one person with agency voting authority to serve on the South Carolina Interagency Coordinating Council (SCICC);
- Participate in the Child Find system, which is a system to locate, evaluate, assess and identify children who may be eligible for Part C supports and services;
- Designate at least one person to serve on the Interagency Director's Committee who is knowledgeable and experienced in Part C requirements and authorized to participate in interagency decision-making related to the Part C system;
- Participate in the ongoing development, implementation and evaluation of working agreements and strategies at the State and local levels including the evaluation of this MOA document at least annually;
- Support family members as active participants at all levels in the development, implementation and evaluation of the statewide, comprehensive early intervention system;
- Share information about eligible children and their families to the extent consistent with State and Federal confidentiality requirements, including the requirements of the Health Information Portability and Accountability Act (HIPAA) and the Family Education Rights and Privacy Act (FERPA), in order to get accurate and unduplicated counts to meet Federal reporting requirements and to facilitate the effective and efficient delivery of services;
- Provide coordinated training and technical assistance as appropriate for families and service providers across agencies;
- Ensure the effective and efficient transition from services under Part C to services under Part B or other community-based programs;
- Provide information for a statewide central directory to facilitate access to information for families and service providers;
- Provide technical assistance and support in the maintenance of local BabyNet Coordination Teams participating in the early intervention system;
- Ensure any policy or procedural changes implemented that impact BabyNet services do not violate Part C;
- Provide input into and abide by the BabyNet Policy and Procedure Manual requirements as approved by the Participating Agencies;
- Provide leadership, direction and coordination, as appropriate, regarding the local planning and provision of services to children and families;

- Assist local agencies in fulfilling their obligations to children and families;
- Assist in the recruitment of local teams specified in this MOA;
- Assist in the development of local agreements that will provide guidance to local interagency collaborative efforts;
- Provide services in accordance with the infant or toddler's Individualized Family Service Plan including frequency, intensity, and duration; and
- Use standardized BabyNet forms including the Individualized Family Service Plan (IFSP), written prior notice, transition, data reporting, and other forms as may be necessary for OSEP data requirements and ensuring compliance with Part C regulations.

B. Timely Provision of Services

All early intervention services included in the IFSP must be made available to the child and their family on a timely basis. Services may be provided by State or local agencies in accordance with each agency's eligibility requirements but must meet Part C requirements.

When system capacity limitations are identified at the State or local level, Participating Agencies receiving Federal Part C or State BabyNet funding may enter into contractual agreements to address the timely provision of services.

Within each agency's authority, Participating Agencies receiving Federal Part C or State BabyNet funding will assist in the development, implementation and improvement of a system of timely evaluation, assessment and service provision. Participating Agencies receiving Federal Part C or State BabyNet funding and responsible for delivery of Part C early intervention services, as noted in Section VI and Appendix 2 of this document, shall:

- Ensure, to the maximum extent appropriate for each child that all early intervention services are provided in natural environments, which mean settings that are natural or normal for the child's age peers who have no disabilities. Early intervention services can occur in a setting other than a natural environment only if early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment and if the child's IFSP includes a (child-based) reason why the service can not be provided in a natural environment;
- Ensure the timely provision of services in accordance with Federal regulations and State policy.

C. Comprehensive of System of Personnel Development

Participating Agencies receiving Federal Part C or State BabyNet funding will collaborate with one another in the development and implementation of a comprehensive statewide system for personnel development and technical assistance that will promote high quality early intervention services in accordance with Part C of IDEA. Collaborative efforts include, but are not limited to; Child Care training initiatives, procedural safeguards training, transition training and Head Start regional training.

In addition, opportunities to collaborate with other agencies to develop joint training will be pursued by all Participating Agencies. Whenever appropriate, Head Start, Childcare,

and LEA staff will be invited to participate in regional and local early intervention training.

DHEC, as Lead Agency for Part C, and the State Department of Education, Office of Exceptional Children, as the Part B agency, will work collaboratively to distribute transition materials and training on the transition of children and families from Part C services to Part B services.

D. Procedural Safeguards

The Participating Agencies receiving Federal Part C or State BabyNet funding shall provide input into and abide by the State procedural safeguards as contained in the BabyNet Policy and Procedures Manual. The Participating Agencies receiving Federal Part C or State BabyNet funding agree to provide and ensure the procedural safeguards required under Part C and FERPA and set forth in the BabyNet Policy and Procedure Manual.

Procedural safeguards protect the legal rights and privacy of eligible children and their families. These legal rights include the rights of the parent to:

- Review, amend and supplement any early intervention records related to the child which are collected, maintained or used by the Part C System;
- Receive written prior notice (7 days) before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family (34 CFR 303.403);
- Request a reasonable explanation and interpretation of any record;
- Receive information in the family's native language or other mode of communication;
- Obtain written informed consent prior to conducting the initial evaluation and assessment of a child and initiating the provision of early intervention services (34 CFR 303.404);
- Decline or accept any supports or services in whole or in part without jeopardizing other early intervention services provided under Part C (34 CFR 303.405);
- Utilize impartial procedures to resolve individual child and family complaints; and
- Be assured of confidentiality of information consistent with FERPA and IDEA (34 CFR 303.460).

E. Supervision and Monitoring

The South Carolina Department of Health and Environmental Control, as the Lead Agency, is responsible for the general administration of BabyNet, monitoring of programs and activities receiving assistance under Part C, and monitoring of programs and activities used by the State to carry out this part, whether or not the program/activities are receiving assistance under Part C, to ensure compliance with Part C. The SDE is responsible for monitoring of programs and activities of the local school districts under Part B.

The Department of Health and Environmental Control will take necessary steps to ensure the following:

- Monitoring of agencies and organizations receiving Part C assistance;
- Identifying and verifying suspected statutory, regulatory, and policy noncompliances;
- Enforcing obligations imposed on agencies by regulations and this MOA through sanctions including, but not limited to, discontinuing contracts/sub-contracts and enforcement through the dispute resolution procedures contained in this agreement. BabyNet provider contract and sanction procedures are included in Appendix 4;
- Providing technical assistance as necessary to those agencies; and
- Overseeing the correction of deficiencies identified through monitoring.

The Participating Agencies receiving Federal Part C or State BabyNet funding agree to implement a multi-agency monitoring and supervision system to:

- Ensure each agency and its contractors/sub-contractors are in compliance with Part C regulations and this MOA through the administration of sanctions including, but not limited to, discontinuing contracts/subcontracts, withholding of funds, requiring corrective actions, or disciplinary actions in accordance with each agency's personnel standards;
- Ensure non-discriminatory evaluation & assessment in determining eligibility for Part C services;
- Establish interagency on-site Monitoring Teams;
- Establish and implement sanctions and rewards regarding compliance;
- Clarify responsibility in assisting eligible infants and toddlers and their families in achieving IFSP outcomes (related to monitoring);
- Ensure interagency participation on the local BabyNet Coordination Teams;
- Ensure sharing of monitoring results across all participating agencies and technical assistance related to monitoring of compliance;
- Establishment of interagency procedures on monitoring; and
- Ensure submission and dissemination of data for use in monitoring.

All parties to this Agreement will develop and participate in the timely collection, verification, analysis, reporting, and usage of data for the purposes of intra- and interagency monitoring and program improvement. Supervision will be carried out by periodic monitoring process to review programs and services as part of a continuous improvement process.

Monitoring activities shall include:

- Ongoing data analysis, desk audits, record reviews, on-site systems monitoring visits, focus groups with families and interviews with program implementers and family members;
- Citation of areas of strength, non-compliance and need for improvement as specified in Appendix 2; and
- Provision of technical assistance to agencies and programs that provide early intervention supports and services to address areas of non-compliance and need for improvement.

These activities will be implemented as follows:

- All parties to this MOA will develop and participate in an interagency monitoring process that includes data collection;
- All parties to this MOA will participate in the development and dissemination of monitoring and compliance information and technical assistance;
- There will be an on-site interagency monitoring team that shall be responsible for identifying and reporting instances of non-compliance with appropriate partners.

DHEC Compliance Managers shall coordinate resolution of instances of deficiencies as identified through monitoring processes through the BabyNet Coordination Teams.

F. Financial Responsibilities

The Participating Agencies receiving Federal Part C funding or State BabyNet funding agree to the following in relation to a State Part C system of payments:

- To clarify financial responsibilities of all Agencies participating in the MOA;
- To clarify the financial participation of families in the provision of early intervention services;
- To ensure maintenance of effort per 34 CFR 303.124;
- To ensure effective use of the resources available to the State, including the maximization of Medicaid match revenues;
- To provide the Lead Agency with ongoing expenditure and budget information as part of the development and implementation of an annual assessment of State Part C expenditures inclusive of Medicaid; and
- To assist in the development of joint Agency budget requests.

The Participating Agencies receiving Federal Part C or State BabyNet funding commit to:

- Development, implementation and annual review of each agency's service responsibility and commitment of financial resources to provide these services (see Appendix 3);
- Effective use of current resources through such activities as coordinated Child Find, planning, training, marketing and integrated service delivery;
- Exploration of the feasibility of the impact of a sliding fee scale which may be implemented after public notice and comment procedures as required by Part C;
- Assignment to the ICC Finance Subcommittee the responsibility of developing an annual expenditure report;
- Adherence to maintenance of effort within its agency's financial expenditures, in addition to the State's aggregate expenditures;
- Assurance that there is a clear audit trail for all Part C income and expenditures as required by Federal and State law; and
- Ensuring that State appropriated BabyNet funds and Federal Part C funds are not used for children past their third birthday.

Accordingly, the Participating Agencies receiving Federal Part C or State BabyNet funding assure continued provision of available resources to deliver early intervention supports and services to infants and toddlers with disabilities and their families in compliance with the IDEA regulations (see Appendix 1).

Maximum use will be made of all third party funding sources. State planning efforts will continue to support and facilitate such financing arrangements. Determination of specific agency responsibility for the provision of entitled services under Part C is based upon the provisions of this MOA. The Department of Health and Environmental Control, as Lead Agency for Part C, is responsible for ensuring the availability of services to which an eligible infant and toddler and their family are entitled, including, but not limited to, the provision of a multidisciplinary evaluation and assessment, the development of the Individualized Family Services Plan (IFSP), the provision of service coordination, and the availability of services included in the IFSP.

Participating Agencies receiving Federal Part C funding or State BabyNet funding will enroll providers who agree to provide early intervention program services to eligible infants and toddlers and their families in accordance with Part C policies and procedures. Through this process, South Carolina will ensure that Part C services are available throughout the State either through public agencies or through vendor agreements and contractual arrangements with public and private providers.

The agencies agree not to impose fees on the families utilizing these services:

- Referral to BabyNet ;
- Service coordination;
- Evaluations and assessments related to determining initial and ongoing eligibility;
- Determining the child's levels of functioning in the developmental areas;
- Determination of family resources, priorities and concerns;
- Personnel services related to the development, review, and evaluation of the IFSP;
- Implementation of procedural safeguards; and
- Child Find related activities.

Fees based on a sliding scale may be charged for other services in accordance with State statutes and agency regulations when on file with, and approved by the U.S Department of Education. However, fees may not be charged for the services that a child is otherwise entitled to receive at no cost to parents; and the inability of the parents of an eligible child to pay for services will not result in the denial of services to the child or the child's family. (34 CFR 303.520)

F. Cultural Diversity

The statewide system of early intervention for infants and toddlers shall recognize the significance cultural diversity plays in peoples' lives and reflect sensitivity to the cultures of all participants. The cultural responsiveness of the early intervention system shall be enhanced through ongoing review and capacity building of all aspects of this system. Such aspects include, but are not limited to, Child Find, Public Awareness, policy development, professional development, child and family assessment and ongoing service provision. (34 CFR 303.128)

G. Child Find

Given the parallel requirements under Federal laws, BabyNet, the State Department of Education, and Head Start accept joint responsibility for the location and identification, screening, and evaluation of all infants and toddlers who are potentially eligible under

the IDEA. However, this does not relieve the SDE or DHEC of their respective Child Find obligations. Local communities determine the most effective strategies for Child Find. All Child Find activities are to be conducted at no cost to families. (34 CFR 303.321)

In accordance with the Child Find requirements of Part B and Part C (34 CFR 300.132, 34 CFR 300.500, 34 CFR 303.148, and 34 CFR 303.344,) Part C Service Coordinators will disclose directory information, including the child's name, date of birth and sufficient contact information to allow the SDE to fulfill their Child Find responsibilities. Parental consent is not required for this disclosure.

All signatory agencies agree to develop procedures to ensure that all potentially eligible children are referred to BabyNet within two working days of identification. These agencies agree to assist in Public Awareness and Child Find activities to ensure that all public and private primary referral sources make referrals within the two-day time period. (34 CFR 303.321)

V. Common Definitions

The Part C definitions specified in 34 CFR 303.6 through 303.24 are hereby made part of this MOA (see Appendix 2: IDEA Regulatory Definitions).

VI. Agency Responsibilities

The Participating Agencies receiving Federal Part C funding or State BabyNet funding will provide leadership in the provision of early intervention services as outlined in the Mutual Agreements above, Appendix 3, and as follows:

Department of Health and Environmental Control

The Department of Health and Environmental Control (DHEC), with the advice and assistance of the South Carolina Interagency Coordinating Council, is the Lead Agency responsible for South Carolina's Part C system of services for eligible infants and toddlers and their families, also known as BabyNet. As the Lead Agency, the Department of Health and Environmental Control has responsibility for the administration of the BabyNet System in accordance with the requirements of Part C and the South Carolina Act.

As the Lead Agency, DHEC is responsible for:

- Serving as a single line of responsibility for the BabyNet System;
- Administering the BabyNet System in compliance with Part C;
- Taking appropriate action to identify and coordinate all available resources for early intervention services within the State, including those from Federal, State, local, and private sources including:
 - Title V of the Social Security Act (relating to Maternal and Child Health);
 - Title XIX of the Social Security Act (relating to the general Medicaid Program and EPSDT);
 - The Head Start Act;

- Parts B and C of IDEA;
- The Developmental Disabilities Assistance and Bill of Rights Act; and
- Other Federal programs.
- Monitoring of programs and activities used by the State to carry out its obligations under Part C, whether or not these programs or activities are receiving assistance under Part C, to ensure that the State complies with Part C;
- Monitoring Part C compliance of agencies, institutions, and organizations used by the State to carry out Part C requirements;
- Ensuring enforcement of any obligations imposed on those agencies under Part C of IDEA, its regulations, and State statutes and regulation;
- Providing technical assistance, if necessary, to those agencies, institutions, and organizations;
- Ensuring correction of deficiencies that are identified through monitoring and supervision activities;
- Entering into formal interagency agreements with other State-level agencies involved in the State's early intervention program;
- Establishing or adopting procedural safeguards that meet the requirements of Part C;
- Ensuring effective implementation of procedural safeguards by each public agency in the State that is involved in the provision of early intervention services;
- Development and implementation of a BabyNet Policy and Procedure Manual to ensure consistent statewide program implementation among the agencies listed in this MOA; and
- Participating in the South Carolina Advisory Council for Part B.

Department of Disabilities and Special Needs

The South Carolina Department of Disabilities and Special Needs will:

- Provide service coordination, special instruction, and family training to eligible infants and toddlers with disabilities;
- Contract with local Disabilities and Special Needs Boards and their subcontracting agencies to provide service coordination, special instruction, and family training to eligible infants and toddlers with disabilities and their families;
- Continue to collaborate with BabyNet by serving on the State Interagency Coordinating Council as well as various other task force groups;
- Ensure monitoring of contractors and sub-contractors to ensure compliance with Part C regulations;
- Require local DSN Boards to participate as part of the local BabyNet Coordination Teams;
- Collaborate in the implementation of the State's early intervention system that will provide choices and options for families for the identified supports and services to be delivered in the family's natural environment to promote community inclusion and optimal individual development;
- Participate in training and technical assistance activities coordinated with DHEC and other State and community agencies.

State Department of Education

The South Carolina State Department of Education (SDE) will provide and assure the following:

- **Interagency responsibility**
The SDE represents programs, resources and services available for children eligible for Part B services transitioning from BabyNet. It is understood that current efforts of State and local agencies will be sustained and where possible, built upon, to achieve the goal of statewide availability of services.
- **Accessible services to infants and toddlers and their families, ensuing that:**
 - Where possible, services are in close proximity to where families live;
 - Efforts are instituted to eliminate architectural barriers
 - Local communities will determine their procedures for effective transitioning of eligible infants and toddlers and their families that meet the Federal and State mandates.
- **Local Interagency Participation**
The SDE supports local interagency initiatives in the design and development of a community-based service delivery system. Local Education Agencies (LEAs) will participate in local interagency initiatives to ensure Child Find and transition, including the development and maintenance of local BabyNet Coordination Teams, local Child Find procedures, local interagency transition agreements (LITAs), training, support, and technical assistance.
- **State ICC Participation**
The SDE shall participate in the South Carolina Interagency Coordinating Council (SCICC) and official committees and task forces of the ICC, as appropriate.
- **Data System**
The SDE shall continue to participate in the design and implementation of a BabyNet data system according to established policy to facilitate the collection of necessary data regarding the transition of children from Part C to Part B programs so that:
 - Accurate and unduplicated counts can be supplied to the U.S. Office of Special Education Programs as required;
 - Exchange of information can occur consistent with FERPA among State and local BabyNet Coordination Teams and the SDE for planning and reporting purposes; and
 - Data is provided to the existing BabyNet data system in accordance with established procedures and procedural safeguards to ensure Part B and Part C requirements are met.
- **Transition**
 - Beginning on their third birthday, preschool children with disabilities meeting the eligibility criteria developed by the SDE under Part B of IDEA must have available a special education program, that provides for a free and appropriate public education, including special education and related services. LEAs must evaluate a child in accordance with criteria established by the SDE and develop an Individualized Education Program (IEP) within the timelines that require services under Part B to be made available by the child's third birthday. Evaluations conducted by other professionals or agencies within the last six months (between ages 2 & 3) may be accepted and used in developing the initial Individualized

Education Program so as to ensure a timely initiation of that program and to avoid over-testing of the child.

- When children turn three years old between the ending date of one school year and the beginning date of the subsequent school year, an evaluation must be conducted and an Individualized Education Program must be developed within timelines that allow for placement to occur on the beginning date of the subsequent school year. However, if the Individualized Education Program team determines that there is a need for Extended School Year (ESY) services, these services must be made available beginning on the child's third birthday.
- School districts must adhere to the transition policies and procedures jointly established by BabyNet and the SDE to ensure a timely transition to Part B preschool services.
- BabyNet Service Coordinators, parents of children with disabilities who are ready to enter preschool programming, or representatives of agencies or other entities providing services to eligible children must notify the school district where the child resides about the need for a Transition Conference. The notification to the schools regarding this Conference must be a least fourteen calendar days before the Transition Conference is scheduled. BabyNet, the family, and the school district shall coordinate their schedules to set up a mutually agreeable time for the Conference. At least ninety days before the date on which a child becomes eligible for the preschool program, school district personnel, from the district where the child resides, must participate in a Transition Conference convened by the child's Part C Service Coordinator service coordinator.
- Child Find
In accordance with IDEA, both the State Department of Education, the Part B Agency, and DHEC, the Lead Agency under Part C; remain ultimately responsible for the implementation of Child Find policies and procedures.

Department of Health and Human Services

The South Carolina Department of Health and Human Services (DHHS) will provide and assure:

- Reimbursement for Part C early intervention services, within Medicaid laws, regulations, and program guidelines and restrictions, which are provided to Medicaid recipients who are also BabyNet eligible.
- BabyNet and Medicaid eligible children receive appropriate health care through Early, Periodic Screening, Diagnosis and Treatment (EPSDT).

Department of Mental Health

The South Carolina Department of Mental Health will provide and assure:

- Psychological services;
- Family training/counseling and education; and
- Participation in the local BabyNet Coordination Teams.

Department of Social Services

The South Carolina Department of Social Services (DSS) will provide and assure:

- Referral, consistent with the provisions of the Child Abuse Prevention and Treatment Act (CAPTA), of infants and toddlers under the age of 3 years;
- Referral of children suspected of having a disability or developmental delay in accordance with Part C of IDEA;
- Development and implementation of joint procedures with BabyNet to ensure coordinated referral of children under CAPTA and IDEA; and
- Programs and supports in the areas of family preservation and child welfare.

South Carolina School for the Deaf and the Blind

The South Carolina School for the Deaf and the Blind will provide and assure:

- Early intervention services to BabyNet eligible infants and toddlers and their families with an emphasis on infants and toddlers with sensory disabilities;
- Delivery of special instruction, service coordination, and family training services in accordance with Part C requirements and BabyNet Policies and Procedures;
- Qualified staff to implement service delivery that meets the developmental needs of each child as well as the needs of the family related to enhancing the child's development;
- Development and implementation of Individualized Family Service Plans (IFSPs) developed with parents, other service providers and representatives of appropriate community agencies to ensure provision of services at the local level;
- Internal supervision and ongoing monitoring by SCSSDB staff in collaboration with DHEC to ensure program quality and compliance with Part C requirements and BabyNet Policies and Procedures;
- Opportunities for parents and families to evaluate program services at least annually;
- Collaboration, partnership, and full participation at the local and State level to achieve Part C system outcomes developed by DHEC; and
- Participation as part of the local BabyNet Coordination Teams.

VII. State Agency Dispute Resolution Process

The Participating Agencies receiving Federal Part C funding or State BabyNet funding recognize the complexity of interagency coordination in a program as comprehensive as Part C of IDEA. They shall strive to keep communication open and frequent at both informal and formal levels. The South Carolina Interagency Coordinating Council and the South Carolina Department of Health and Environmental Control, as Lead Agency for the administration of Part C, shall facilitate vehicles for open, on-going communication among all Participating Agencies.

The purposes of a State agency dispute resolution process are to:

- Clarify roles and responsibilities among agencies;
- Establish a resolution process to address noncompliance, disputes regarding services, and other disputes regarding responsibilities under this MOA;

- Ensure entitled services are provided in a timely manner while disputes are resolved; and
- Ensure every effort is made to resolve any differences at the lowest level possible.

Generally, the dispute resolution procedures in this agreement do not apply to individual child complaints, i.e., complaints that generally affect only a single child or the child's family. For these types of complaints, the child and family have the right to existing procedural safeguards (BabyNet Procedural Safeguards), including mediation and due process, in accordance with State and Federal laws.

The following procedures for timely resolution of disputes or differences of opinion related to the implementation of this agreement, will be binding upon all Participating Agencies:

1. Agency notices of dispute must be written, signed, and include a statement that a Participating Agency has violated the terms of this MOA or the BabyNet Policies and Procedures, and the facts on which the dispute is based. The notice of dispute will be delivered by the disputing agency or DHEC representative to the appropriate agencies' program director within 2 working days of receipt with a copy to the BabyNet Central Office. The disputing agency representative will report the resolution or status of the issue back to the BabyNet Central Office within 30 calendar days. If agreement is not reached, the resolution procedures stated below will be followed.
2. When disputes arise involving two or more Participating Agencies, the respective agency representatives will meet in a timely manner to attempt to resolve the matter. Upon resolution, a joint Memorandum of Resolution will be developed and disseminated by a representative from each agency. If this meeting does not resolve the dispute, DHEC will call a meeting of the signatory agencies to resolve the issue. This must take place within 60 calendar days of the original delivery of the notice to BabyNet Central Office.
3. In the unlikely event that resolution cannot be reached by signatory agency representatives and DHEC, it will be forwarded to the Governor's Office for timely resolution.
4. Pending resolution of the dispute, the Department of Health and Environmental Control shall arrange for payment of services by an appropriate agency to ensure that services continue to the child and family during the period of time needed for resolution of the dispute.
5. If, in resolving the dispute, it is determined that the assignment of financial responsibility was inappropriately made, the Agency having financial responsibility will make arrangements promptly for reimbursement of any expenditures incurred by the agency originally assigned financial responsibility.

VIII. Special Conditions

Multiple copies may be executed in counterpart in lieu of a fully executed original. This Memorandum shall be deemed executed upon the date that both parties have signed a counterpart and delivered the signed counterpart to the other party. All of the copies collectively shall constitute the original Memorandum of Agreement.

IX. Effective Date

This agreement shall be in effect upon signatures of the Participating Agency Directors. It is ongoing and in effect until terminated by mutual agreement of all parties.

Appendix 1
Supporting Federal and State Statutes

Supporting Federal and State Statutes

- **P.L. 105-17, the Individuals with Disabilities Education Act (IDEA)** addresses early intervention for infants and toddlers with developmental delays and their families, and special education and related services for children and youth with disabilities. IDEA, Part C, charges states to develop and implement a comprehensive, coordinated, interagency system of supports and services for infants and toddlers with disabilities and their families and to ensure cooperation among agencies. Part B of the law requires the administration of a comprehensive system of child identification, birth to age 21, to locate, identify and evaluate any child who may have a disability and be eligible for services under IDEA. Part C and Part B share responsibility for ensuring effective and efficient transition of children by their third birthday. In addition, the IDEA includes several financial requirements:
 - Prohibition against commingling (34 CFR 303.123) – Funds made available under Part C will not be commingled with State funds.
 - Prohibition against supplanting (34 CFR 303.124) – Federal funds made available under Part C will not be used to supplement the level of State and local funds expended for eligible children and their families and in no case to supplant those State and local funds.
 - Maintenance of effort (34 CFR 303.124) – The total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services.
 - Non-reduction of benefits (34 CFR 303.527) – Nothing in Part C of IDEA may be construed to permit a State to reduce medical or other assistance available or to alter eligibility under Title V of the Social Security Act (SSA) relating to maternal and child health) or Title XIX of the SSA (relating to Medicaid for children eligible under this part) within the State.
- Nonsubstitution of funds (34 CFR 303.527) – Funds under Part C may only be used for early intervention services that an eligible child needs but is not currently entitled to under any other federal, State, local, or private source.
- Payor of Last Resort (34 CFR 303.527) -- Part C funds are to be used as Payor of Last Resort and therefore may not be used to satisfy a financial commitment for early intervention supports and services that would otherwise have been paid for from other public sources but for the enactment of Part C.
- **The Developmental Disabilities Assistance and Bill of Rights Act**, Amendments of 2000, assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports and other assistance and opportunities that promote independence, productivity, integration and inclusion into the community.
- **The Americans with Disabilities Act (ADA) of 1990** provides a basis for ensuring the civil rights of all people with disabilities, including infants and toddlers with disabilities, to access to both public and private accommodations.
- **Social Security Act**
 - **Title IV-B** - provides federal funding for general child welfare services to children and families who meet eligibility criteria. Title IV-B, Subpart 2, Supporting Safe and Stable Families, provides a capped entitlement to states for community-based family support services, time-limited family re-

unification services, adoption promotion and support services.

- **Title IV-A** - provides emergency assistance for families with children who are at risk of placement out of the home.
- **Title IV-E & Supplemental Security Income (SSI)** - enables states to provide foster care and adoption assistance for children who otherwise would be eligible for aid to families with dependent children.
- **Title V, Section 505 (2) (E)** - allows for participation with other State programs involved with the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services authorized under Title XIX to ensure that there is no duplication of effort; in the arrangement and carrying out of coordination agreements described in Section 1902 (a) (11), relating to coordination of care and services available under this Title and Title XIX; in coordinating activities within the State with programs carried out under this Title and related federal grant programs such as Supplemental Food Program for Women, Infants and Children (WIC), related educational programs, and other health and developmental disability programs.
- **Title V, Section 505(a)(1)(A-D), Maternal and Child Health Block Grant to States, OBRA .89** - requires the provision and promotion of family-centered, community-based, coordinated care including care coordination services for children with special health care needs and to facilitate the development of community based systems of services for such children and their families.
- **Title XIX of (grants to states for Medical Assistance Programs), Section 1902 (a) (11) (A)** - provides for the entering into cooperative arrangements with the State Departments responsible for administering and/or supervising the administration of services to ensure

maximum utilization of such services and provides federal funding for EPSDT for children who meet eligibility criteria.

- **Title XX** - provides a block grant to states for the provision of social services. In South Carolina, these funds are used to help pay for a variety of services at the County Departments of Social Services.
- **The January 1990 Consolidation of the Child Nutrition Act** requires the Supplemental Food Program for Women, Infants and Children (WIC) to coordinate with other State programs such as well-child care, maternal and child health care, EPSDT and Medicaid.
- **Section 5082 of the Omnibus Budget Reconciliation Act of 1990, the Child Care and Development Fund (eff. 1998)** provides child care subsidies for low-income families and funds for activities to improve the quality of child care and to increase the availability of early childhood development programs and before and after school care services.
- **Public Law 102-321, The Mental Health Block Grant**, provides requirements concerning the targeting of mental health services, including children with severe emotional disturbances, as well as coordination of mental health services across relevant agencies.
- **The Family Educational Rights and Privacy Act (FERPA)** (20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of student education records. The law applies to all entities that receive funds under an applicable program of the U.S. Department of Education.
- **The Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA)** requires certain types of health care providers to notify individuals of their privacy rights and how their information can

be used, adopting and implementing privacy procedures, training employees so that they understand the privacy procedures, designating an individual to be responsible for seeing that the privacy procedures are adopted and followed and securing records containing individually identifiable health information so that they are not readily available to those who do not need them.

- **The Child Abuse Prevention and Treatment Act's (CAPTA)** most recent amendments require establishment of a mandatory referral mechanism to a State's Part C program.
- **South Carolina Revised Article 21, Chapter 7, Title 44 of the 1976 Code, South Carolina Infants and Toddlers**

with Disabilities Act, includes enabling legislation for supports and services for infants and toddlers with disabilities and their families and the regulations for implementing this law require coordination and cooperation with Part C at the local level.

Appendix 2
IDEA Regulatory Definitions

IDEA Regulatory Definitions

§ 303.6 Act.

As used in this part, Act means the Individuals with Disabilities Education Act.

(Authority: 20 U.S.C. 1400)

§ 303.7 Children.

As used in this part, children means infants and toddlers with disabilities as that term is defined in § 303.16.

(Authority: 20 U.S.C. 1432(5))

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34 CFR Ch. III (7–1–99 Edition) § 303.8

§ 303.8 Council.

As used in this part, Council means the State Interagency Coordinating Council.

(Authority: 20 U.S.C. 1432(2))

§ 303.9 Days.

As used in this part, days means calendar days.

(Authority: 20 U.S.C. 1431–1445)

§ 303.10 Developmental delay.

As used in this part, “developmental delay,” when used with respect to an individual residing in a State, has the meaning given to that term under § 303.300.

(Authority: 20 U.S.C. 1432(3))

[64 FR 12535, Mar. 12, 1999]

§ 303.11 Early intervention program.

As used in this part, early intervention program means the total effort in a State that is directed at meeting the needs of children eligible under this part and their families.

(Authority: 20 U.S.C. 1431–1445)

§ 303.12 Early intervention services.

(a) General. As used in this part, early intervention services means services that—

(1) Are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child’s development;

(2) Are selected in collaboration with the parents;

(3) Are provided—

(i) Under public supervision;

(ii) By qualified personnel, as defined

in § 303.21, including the types of personnel

listed in paragraph (e) of this section;

(iii) In conformity with an individualized family service plan; and

(iv) At no cost, unless, subject to § 303.520(b)(3), Federal or State law provides for a system of payments by families, including a schedule of sliding fees; and

(4) Meet the standards of the State, including the requirements of this part.

(b) Natural environments. 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.

(c) General role of service providers. To the extent appropriate, service providers in each area of early intervention services included in paragraph (d) of this section are responsible for—

(1) Consulting with parents, other service providers, and representatives of appropriate community agencies to ensure the effective provision of services in that area;

(2) Training parents and others regarding the provision of those services; and

(3) Participating in the multidisciplinary team’s assessment of a child and the child’s family, and in the development of integrated goals and outcomes for the individualized family service plan.

(d) Types of services; definitions. Following are types of services included under “early intervention services,” and, if appropriate, definitions of those services:

(1) Assistive technology device means 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 children with disabilities.

Assistive technology service means a

service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Assistive technology services include—

- (i) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
 - (ii) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
 - (iii) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - (iv) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - (v) Training or technical assistance for a child with disabilities or, if appropriate, that child's family; and
 - (vi) Training or technical assistance for professionals (including individuals providing early intervention services) or other individuals who provide services to or are otherwise substantially involved in the major life functions of individuals with disabilities.
- (2) Audiology includes—
- (i) Identification of children with auditory impairment, using at risk criteria and appropriate audiologic screening techniques;
 - (ii) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;
 - (iii) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;
 - (iv) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;
 - (v) Provision of services for prevention of hearing loss; and
 - (vi) Determination of the child's need

for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(3) Family training, counseling, and home visits means services provided, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of a child eligible under this part in understanding the special needs of the child and enhancing the child's development.

(4) Health services (See § 303.13).

(5) Medical services only for diagnostic or evaluation purposes means services provided by a licensed physician to determine a child's developmental status and need for early intervention services.

(6) Nursing services includes—

(i) The assessment of health status for the purpose of providing nursing care, including the identification of patterns of human response to actual

or potential health problems;

(ii) Provision of nursing care to prevent health problems, restore or improve functioning, and promote optimal health and development; and

(iii) Administration of medications, treatments, and regimens prescribed by a licensed physician.

(7) Nutrition services includes—

(i) Conducting individual assessments in—

(A) Nutritional history and dietary intake;

(B) Anthropometric, biochemical, and clinical variables;

(C) Feeding skills and feeding problems; and

(D) Food habits and food preferences;

(ii) Developing and monitoring appropriate plans to address the nutritional needs of children eligible under this part, based on the findings in paragraph (d)(7)(i) of this section; and

(iii) Making referrals to appropriate community resources to carry out nutrition goals.

(8) Occupational therapy includes services to address the functional needs of a child related to adaptive development, adaptive behavior and play, and

sensory, motor, and postural development.

These services are designed to

improve the child's functional ability to perform tasks in home, school, and community settings, and include—

(i) Identification, assessment, and intervention;
(ii) Adaptation of the environment, and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and
(iii) Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(9) Physical therapy includes services to address the promotion of sensorimotor function through enhancement of musculoskeletal status, neurobehavioral organization, perceptual and motor development, cardiopulmonary status, and effective environmental adaptation. These services include—

(i) Screening, evaluation, and assessment of infants and toddlers to identify movement dysfunction;
(ii) Obtaining, interpreting, and integrating information appropriate to program planning to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and
(iii) Providing individual and group services or treatment to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

(10) Psychological services includes—

(i) Administering psychological and developmental tests and other assessment procedures;
(ii) Interpreting assessment results;
(iii) Obtaining, integrating, and interpreting information about child behavior, and child and family conditions related to learning, mental health, and development; and
(iv) Planning and managing a program of psychological services, including psychological counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(11) Service coordination services means assistance and services provided by a service coordinator to a child eligible under this part and the child's family that are in addition to the functions and activities included under § 303.23.

(12) Social work services includes—

(i) Making home visits to evaluate a child's living conditions and patterns of parent-child interaction;
(ii) Preparing a social or emotional developmental assessment of the child within the family context;
(iii) Providing individual and family group counseling with parents and other family members, and appropriate social skill-building activities with the child and parents;
(iv) Working with those problems in a child's and family's living situation (home, community, and any center where early intervention services are provided) that affect the child's maximum utilization of early intervention services; and
(v) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early intervention services.

(13) Special instruction includes—

(i) The design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan;
(iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and
(iv) Working with the child to enhance the child's development.

(14) Speech-language pathology includes —

(i) Identification of children with communicative or oropharyngeal disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or oropharyngeal disorders and delays in development of communication skills; and
(iii) Provision of services for the habilitation, rehabilitation, or prevention

of communicative or oropharyngeal disorders and delays in development of communication skills.

(15) Transportation and related costs includes the cost of travel (e.g., mileage, or travel by taxi, common carrier, or other means) and other costs (e.g., tolls and parking expenses) that are necessary to enable a child eligible under this part and the child's family to receive early intervention services.

(16) Vision services means—

(i) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;

(ii) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and

(iii) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(e) Qualified personnel. Early intervention services must be provided by qualified personnel, including—

(1) Audiologists;

(2) Family therapists;

(3) Nurses;

(4) Nutritionists;

(5) Occupational therapists;

(6) Orientation and mobility specialists;

(7) Pediatricians and other physicians;

(8) Physical therapists;

(9) Psychologists;

(10) Social workers;

(11) Special educators; and

(12) Speech and language pathologists.

(Authority: 20 U.S.C. 1401(1) and (2); 1432(4))

NOTE: The lists of services in paragraph (d) and qualified personnel in paragraph (e) of this section are not exhaustive. Early intervention services may include such services as the provision of respite and other family support services. Qualified personnel may include such personnel as vision specialists, paraprofessionals, and parent-to-parent support personnel.

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998; 64 FR 12535, Mar. 12,

1999]

§ 303.13 Health services.

(a) As used in this part, health services means services necessary to enable a child to benefit from the other early intervention services under this part during the time that the child is receiving the other early intervention services.

(b) The term includes—

(1) Such services as clean intermittent catheterization, tracheostomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) Consultation by physicians with other service providers concerning the special health care needs of eligible children that will need to be addressed in the course of providing other early intervention services.

(c) The term does not include the following:

(1) Services that are—

(i) Surgical in nature (such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus); or

(ii) Purely medical in nature (such as hospitalization for management of congenital heart ailments, or the prescribing of medicine or drugs for any purpose).

(2) Devices necessary to control or treat a medical condition.

(3) Medical-health services (such as immunizations and regular “wellbaby” care) that are routinely recommended for all children.

(Authority: 20 U.S.C. 1432(4))

NOTE: The definition in this section distinguishes between the health services that are required under this part and the medical health services that are not required. The IFSP requirements in subpart D of this part provide that, to the extent appropriate, these other medical-health services are to be included in the IFSP, along with the funding sources to be used in paying for the services or the steps that will be taken to secure the services through public or private sources. Identifying these services in the IFSP does not impose an obligation to provide the services if they are otherwise not required to be provided under this part. (See § 303.344(e) and

the note 3 following that section.)

§ 303.14 IFSP.

As used in this part, IFSP means the individualized family service plan, as that term is defined in § 303.340(b).

(Authority: 20 U.S.C. 1436)

§ 303.15 Include; including.

As used in this part, include or including means that the items named are not all of the possible items that are covered whether like or unlike the ones named.

(Authority: 20 U.S.C. 1431–1445)

§ 303.16 Infants and toddlers with disabilities.

(a) As used in this part, infants and toddlers with disabilities means individuals from birth through age two who need early intervention services because they—

(1) Are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas:

- (i) Cognitive development.
- (ii) Physical development, including vision and hearing.
- (iii) Communication development.
- (iv) Social or emotional development.
- (v) Adaptive development; or

(2) Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(b) The term may also include, at a State's discretion, children from birth through age two who are at risk of having substantial developmental delays if early intervention services are not provided.

(Authority: 20 U.S.C. 1432(5))

NOTE 1: The phrase “a diagnosed physical or mental condition that has a high probability of resulting in developmental delay,” as used in paragraph (a)(2) of this section, applies to a condition if it typically results in developmental delay. Examples of these conditions include chromosomal abnormalities; genetic or congenital disorders; severe sensory impairments, including hearing and vision; inborn errors of metabolism; disorders reflecting disturbance of the development of the nervous system; congenital infections; disorders secondary to exposure to toxic substances, including fetal alcohol syndrome;

and severe attachment disorders.

NOTE 2: With respect to paragraph (b) of this section, children who are at risk may be eligible under this part if a State elects to extend services to that population, even though they have not been identified as disabled. Under this provision, States have the authority to define who would be “at risk of having substantial developmental delays if early intervention services are not provided.” In defining the “at risk” population, States may include well-known biological and environmental factors that can be identified and that place infants and toddlers “at risk” for developmental delay. Commonly cited factors include low birth weight, respiratory distress as a newborn, lack of oxygen, brain hemorrhage, infection, nutritional deprivation, and a history of abuse or neglect. It should be noted that “at risk” factors do not predict the presence of a barrier to development, but they may indicate children who are at higher risk of developmental delay than children without these problems.

§ 303.17 Multidisciplinary.

As used in this part, multidisciplinary means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities in § 303.322 and development of the IFSP in § 303.342.

(Authority: 20 U.S.C. 1435(a)(3), 1436(a))

§ 303.18 Natural environments.

As used in this part, natural environments means settings that are natural or normal for the child's age peers who have no disabilities.

(Authority: 20 U.S.C. 1435 and 1436)
[63 FR 18294, Apr. 14, 1998]

§ 303.19 Parent.

(a) General. As used in this part, “parent” means—

- (1) A natural or adoptive parent of a child;
- (2) A guardian;
- (3) 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
- (4) A surrogate parent who has been assigned in accordance with § 303.406.

(b) Foster parent. Unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part C of the Act if—

(1) The natural parents' authority to make the decisions required of parents under the Act has been extinguished under State law; and

(2) The foster parent—

(i) Has an ongoing, long-term parental relationship with the child;

(ii) Is willing to make the decisions required of parents under the Act; and

(iii) Has no interest that would conflict with the interests of the child.

(Authority: 20 U.S.C. 1401(19), 1431–1445)
[64 FR 12535, Mar. 12, 1999]

§ 303.20 Policies.

(a) As used in this part, policies means State statutes, regulations, Governor's orders, directives by the lead agency, or other written documents that represent the State's position concerning any matter covered under this part.

(b) State policies include—

(1) A State's commitment to maintain the statewide system (see § 303.140);

(2) A State's eligibility criteria and procedures (see § 303.300);

(3) A statement that, consistent with § 303.520(b), provides that services under this part will be provided at no cost to parents, except where a system of payments is provided for under Federal or State law.

(4) A State's standards for personnel who provide services to children eligible under this part (see § 303.361);

(5) A State's position and procedures related to contracting or making other arrangements with service providers under subpart F of this part; and

(6) Other positions that the State has adopted related to implementing any of the other requirements under this part.

(Authority: 20 U.S.C. 1431–1445)
[58 FR 40959, July 30, 1993. Redesignated and amended at 63 FR 18294, Apr. 14, 1998]

§ 303.21 Public agency.

As used in this part, public agency includes the lead agency and any other political subdivision of the State that is responsible for providing early intervention services to children eligible under this part and their families.

(Authority: 20 U.S.C. 1431–1445)
[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294, Apr. 14, 1998]

§ 303.22 Qualified.

As used in this part, qualified means that a person has met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the person is providing early intervention services.

(Authority: 20 U.S.C. 1432(4))

NOTE: These regulations contain the following provisions relating to a State's responsibility to ensure that personnel are qualified to provide early intervention services:

1. Section 303.12(a)(4) provides that early intervention services must meet State standards.

This provision implements a requirement that is similar to a longstanding provision under part B of the Act (i.e., that the State educational agency establish standards and ensure that those standards are currently met for all programs providing special education and related services).

2. Section 303.12(a)(3)(ii) provides that early intervention services must be provided by qualified personnel.

3. Section 303.361(b) requires statewide systems to have policies and procedures relating to personnel standards.

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294, Apr. 14, 1998]

§ 303.23 Service coordination (case management).

(a) General. (1) As used in this part, except in § 303.12(d)(11), service coordination means the activities carried out by a service coordinator to assist and enable a child eligible under this part and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the State's early intervention program.

(2) Each child eligible under this part and the child's family must be provided

with one service coordinator who is responsible for—

(i) Coordinating all services across agency lines; and

(ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.

(3) Service coordination is an active, ongoing process that involves—

(i) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan;

(ii) Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided;

(iii) Facilitating the timely delivery of available services; and

(iv) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.

(b) Specific service coordination activities.

Service coordination activities include —

(1) Coordinating the performance of evaluations and assessments;

(2) Facilitating and participating in the development, review, and evaluation of individualized family service plans;

(3) Assisting families in identifying available service providers;

(4) Coordinating and monitoring the delivery of available services;

(5) Informing families of the availability of advocacy services;

(6) Coordinating with medical and health providers; and

(7) Facilitating the development of a transition plan to preschool services, if appropriate.

(c) Employment and assignment of service coordinators. (1) Service coordinators may be employed or assigned in any way that is permitted under State law, so long as it is consistent with the requirements of this part.

(2) A State's policies and procedures for implementing the statewide system of early intervention services must be designed and implemented to ensure that service coordinators are able to effectively carry out on an interagency basis the functions and services listed under paragraphs (a) and (b) of this section.

(d) Qualifications of service coordinators.

Service coordinators must be persons who, consistent with § 303.344(g), have demonstrated knowledge and understanding about—

(1) Infants and toddlers who are eligible under this part;

(2) Part C of the Act and the regulations in this part; and

(3) The nature and scope of services available under the State's early intervention program, the system of payments for services in the State, and other pertinent information.

(Authority: 20 U.S.C. 1432(4))

NOTE 1: If States have existing service coordination

systems, the States may use or adapt those systems, so long as they are consistent

with the requirements of this part.

NOTE 2: The legislative history of the 1991 amendments to the Act indicates that the use of the term "service coordination" was not intended to affect the authority to seek reimbursement for services provided under Medicaid or any other legislation that makes reference to "case management" services.

See H.R. Rep. No. 198, 102d Cong., 1st Sess. 12 (1991); S. Rep. No. 84, 102d Cong., 1st Sess. 20 (1991).

[58 FR 40959, July 30, 1993. Redesignated at 63 FR 18294, Apr. 14, 1998]

§ 303.24 State.

Except as provided in § 303.200(b)(3), State means each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the jurisdictions of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

(Authority: 20 U.S.C. 1401(27))

[58 FR 40959, July 30, 1993. Redesignated and amended at 63 FR 18294, Apr. 14, 1998]

Appendix 3
Services Provider Matrix

**AGENCIES RESPONSIBLE FOR PROVIDING, FINANCING AND/OR COORDINATING
PART C EARLY INTERVENTION SERVICES**

PART C SERVICE	DHEC	DMH	SDB	DHHS	DSN	SDE	DSS
Assessment for Service Planning**	S F	S*	S*	F	S	X	X
Assistive Technology	F	X	F*	F	F*	X	X
Audiology	F	X	S*	F	F*	X	X
Evaluation for BABYNET Eligibility**	S* F	X	S*	F	S*	X	X
Family Training	S*	S	S	F	S	X	F*
Counseling	S*	S	X	F	X	X	X
Health	S*	X	X	F	X	X	X
Medical - Diagnosis and Evaluation	S F	S*	X	F	X	X	X
Nursing	S* F	X	X	F	X	X	X
Nutrition	S	X	X	F	X	X	X
Occupational Therapy	F	X	F*	F	F*	X	X
Physical Therapy	F	X	F*	F	F*	X	X
Psychological	F	S*	X	F	X	X	X
Service Coordination**	S	X	S	F	S	X	X
Social Work	S	S*	X	F	X	X	X
Special Instruction	S*	X	S	F	S	X	X
Speech/Language Pathology	F	X	F*	F	F*	X	X
Transportation	F*	X	X	F	X	X	F*
Vision	F	X	S	F	X	X	X

Agency Abbreviations	Service/Funding Codes:
DHEC Department of Health and Environmental Control DHHS Department of Health and Human Services DMH Department of Mental Health DSN Dept. of Disabilities and Special Needs DSS Department of Social Services SDB School for the Deaf and the Blind SDE State Dept. of Education	F = Funds Service only; does not provide service. S = Responsible for providing service to eligible children. X = Agency is not responsible for providing service. * = Pilot or limited availability, not available statewide ** = Required "at no cost" BabyNet is the payor of last resort and is responsible for payment for services only when children are not eligible for specific services from other programs.

Appendix 4

BabyNet Provider Contract Procedures

BabyNet Policy and Procedure Manual

Section: BabyNet Service/ Reimbursement Guide	Procedure: 05.00.00	Page No: 1 of 4
Sub-Section: Provider Contract Procedures	Effective Date: September 1, 2002	
Procedure:	Revision Date: March 16, 2004	

NOTE: For purposes of this policy/procedure, BN providers include private agencies, organizations and individuals responsible for evaluation/assessment services, and ongoing service providers who have entered into contracts for reimbursement and are placed on the approved provider list. Part C services provided through direct contracts with State agencies do not fall under these procedures.

PURPOSE:

The purpose of entering reimbursement contracts with providers is to establish the obligations, expectations and relationships between BabyNet and the provider, and to ensure that quality services are made available to eligible children and their families in a manner that is compliant with Federal and State regulations and consistent with high standards of professional competence.

To receive reimbursement from BabyNet, providers must have a contract with DHEC/BabyNet and services must be provided in accordance with all applicable Federal, State and local laws, rules, regulations, and BabyNet Policies and Procedures.

The provider is an independent contractor for whom no Federal or State income tax will be deducted by BabyNet and for whom no retirement benefits, worker's compensation protection, survivor benefit insurance, group life insurance, vacation and sick leave, liability protection, and similar benefits available to state employees will accrue.

A. PROVIDER CONTRACT PROCEDURES:

- 1.0 Upon contacting BN Central Office, potential providers will be sent a *BN Contract Request Form*, a copy of the BN Service/Reimbursement Guide - Section 5 of the BN Policy and Procedure Manual, Part C Regulations, BabyNet Brochure, and a draft copy of a BN Contract.
- 2.0 The potential provider is responsible for completing the *BN Contract Request Form* and returning it to BN Central Office along with any required supporting documentation.
- 3.0 Upon receipt of the information and approval of request, BabyNet Central Office will request that DHEC Health Services Administration issue a formal numbered contract to the individual or agency requesting the contract.
- 4.0 Upon signing and returning the formal contract, the contract will be signed by a representative of DHEC Health Services Administration. **THE CONTRACT BECOMES VALID ON THE DATE IT IS SIGNED BY THE CHIEF OF STAFF WITHIN DHEC.**
- 5.0 Once the contract is valid, a copy of the contract will be sent to the provider. In addition, BN Central Office will issue a letter to the provider notifying them they are now able to provide BN Services.
- 6.0 BN Central Office will place the provider on the approved provider list and notify relevant BN personnel that the provider has been added.

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B. PROVIDER CONTRACT DENIAL:

- 1.0 The BabyNet Director, or designee, is the individual responsible for denying approval of a provider or termination of an existing contract.
- 2.0 Provider contract applications may be denied if the provider does not submit the required paperwork verifying current licensure, liability insurance, etc.
- 3.0 Additionally, the following conditions will result in denial of contract applications and are grounds for immediate contract termination:
 - 3.1 Termination from previous employment due to Medicaid or financial fraud;
 - 3.2 Prior ethical or criminal convictions;
 - 3.3 Previous termination of a BN Contract resulting from non-compliance with contract requirements;
 - 3.4 Any other reasons relating to the provider's inability to meet the contract requirements or unsuitability for working with BabyNet children and families as determined by BN CO.
- 4.0 If application is denied, BN Central Office shall give the provider notice in writing why denial was necessary within 20 working days of contract request

C. PROCEDURES FOR RESOLUTION OF REPORTED PROVIDER NON-COMPLIANCE WITH FEDERAL AND/OR STATE REGULATIONS OR CONTRACT

The term noncompliance will refer to activities conducted by providers which are not consistent with the Federal regulations (34 CFR-303), State regulations, provider contract, or BN Policies and Procedures.

- 1.0 Any individual, including family members, providers, and/or qualified personnel, who reasonably believes a BabyNet provider to be out of compliance with the BabyNet contract requirements, and/or applicable Federal and State laws or regulations, shall notify the local BabyNet Compliance Manager within five (5) working days by way of a written complaint. If at any point, any individual who reasonably believes that a BabyNet provider is posing an imminent risk of danger to children, parents, or staff, they shall report the information to a local law enforcement agency or SC Department of Social Services, and then to BabyNet Central Office within twenty-four (24) hours.
- 2.0 Verbal Notification and Discussion: The BabyNet Compliance Manager will telephone the provider to discuss the complaint and, if needed, clarify the expectations/requirements of ongoing participation in the BabyNet System and ensure commitment for corrective actions as required. Complainant will be verbally informed of discussion and Compliance Manager's decision of compliance status. Information from all parties regarding these discussions/complaints will be documented and a copy sent to BN Central Office on a monthly basis. The information must include the provider's name, address, and details regarding the complaint/resolution. This information will be maintained in the provider's file at BN Central Office.

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- 3.0 Written Notification: If further non-compliance is reported and confirmed by the BN Compliance Manager, the BN Compliance Manager will issue a formal letter to the provider specifying the area of non-compliance and immediate actions required to meet contract standards. The provider will have fifteen (15) working days to meet all contract requirements. A copy of the letter will be submitted to BN Central Office and maintained in the provider's file at BN Central Office.
- 4.0 All written communications by both parties will occur by Certified Mail, Return Receipt Requested.
- 5.0 Formal Investigation Initiated (see section below for additional information): If the provider does not agree to meet the requirements or the provider continues to demonstrate noncompliance with contract requirements, the BN Compliance Manager will notify BN Central Office in writing. This notification shall include the provider's name, descriptions of the issues including dates, times and methods of attempts to resolve concerns, and other relevant history information. BN Central Office will initiate an investigation of non-compliance (see below for additional information).

D. BN CENTRAL OFFICE INVESTIGATION OF NON-COMPLIANCE

- 1.0 Upon receipt of provider non-compliance complaint, BN Central Office staff shall conduct an investigation. This investigation may include interviews with all parties, record reviews, discussions with families, etc.
- 2.0 Written Notification Following Investigation: Upon completion of the investigation, BabyNet Central Office shall give the provider notice in writing of findings, including why either termination or immediate corrective actions are necessary, with a list of the deficiencies or violations of State and Federal law or regulations.
- 3.0 Corrective Action Plan: When immediate corrective actions are indicated, individuals must respond to BabyNet Central Office with written notification and a plan for corrective actions within 15 working days sent. Any plan for corrective actions must be approved by BN Central Office. If no or incomplete corrective Action Plan is received, BN Central Office will notify provider in writing that payment for the related service unit will be withheld.
- 4.0 If a detailed corrective Action Plan is not received at BN Central Office by the deadline, then the provider's contract will be terminated.
- 5.0 BN Central Office shall notify the BN Compliance Managers, local Early Intervention Supervisors, and BN Fiscal Agent of the removal of a BN contract from a provider within two working days of removal.
- 6.0 Upon this action, the BN Compliance Manager or Early Intervention Services Supervisor shall ensure, through local BN Service Coordinators, that notifications to the parents of any child receiving services from the provider are sent in writing immediately. The BN Service Coordinator will work with the parents who together will make arrangements for the delivery of services by an alternate qualified provider and an IFSP meeting will be conducted when needed or required.

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- 7.0 Authorized services by the terminated contractor shall cease immediately upon the date of notification of such termination and no payments shall be sought or made for any services provided beyond the termination date.
- 8.0 A record of each investigation and contract termination shall be maintained by the State office of the BabyNet Early Intervention System and shall be retained. The record shall be available for public inspection and copying.

E. IMMINENT RISK OR AUTOMATIC TERMINATION

- 1.0 If an individual(s) reasonably believes that a BabyNet provider is posing an imminent risk of danger to children, parents, or staff, they shall report the information to a local law enforcement agency or SC Department of Social Services, and then to BabyNet Central Office within twenty-four (24) hours.
- 2.0 Upon receipt of such notification, BabyNet Central Office shall immediately conduct an investigation.
- 3.0 Until completion of the investigation, BN Central Office may temporarily remove the provider from the BN provider list. Upon completion of investigation, if required, relevant procedures for contract termination will be followed.
- 4.0 Discontinuance or violation of original requirements of BabyNet contract constitutes grounds for automatic termination.