**State Interagency Agreement**

The following is one section of the Virginia Interagency Memorandum of Agreement among the Agencies Involved in Implementation of Part C of the Individuals with Disabilities Education Act (IDEA), signed in May 2013. The full agreement is available at <http://www.infantva.org/documents/STATE-IDEA-MOA-2014.pdf>.

**VII. TRANSITION AGREEMENT BETWEEN THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES AND THE DEPARTMENT OF EDUCATION**

In Virginia, children who reach the age of two on or before September 30 of any given year and who meet Part B eligibility requirements as defined in the *Code of Virginia* and in accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* are eligible to receive special education and related services through their local school divisions. Children who meet Part C eligibility requirements as they near the age of eligibility for preschool services under Part B are considered potentially eligible for Part B preschool services. Notwithstanding the availability of FAPE (free, appropriate public education) at age two, a child remains eligible to receive Part C services until his/her third birthday. In order to ensure a smooth and timely transition for children exiting the Infant & Toddler Connection of Virginia:

1. **The Department of Behavioral Health and Developmental Services (DBHDS) shall:**
2. Require local lead agencies, through the Local Contract for Participation in Part C, to:
3. Develop local interagency agreements with local school divisions that specify local roles and responsibilities for participation on the local interagency coordinating council and for accomplishing the transition planning and activities required under Part C and Part B of IDEA;
4. In the case of a child who may be eligible for preschool services under Part B, notify the Virginia Department of Education and the local educational agency for the area in which a child resides that the child will shortly reach the age of eligibility for preschool services under Part B, as determined by State law, by transmitting each child’s name, parent’s name(s), address, phone number and birth date not fewer than 90 calendar days before that child reaches the age of eligibility for Part B, unless the parent disagrees in accordance with the opt-out procedures specified in the *Infant & Toddler Connection of Virginia Practice Manual.* Notification to the Virginia Department of Education will occur by entry or transfer of the notification information into a secure single sign-on web server hosted by the Virginia Department of Education. The method for notifying the local educational agency will be determined at the local level between the local educational agency and the local lead agency for Part C;
5. Ensure service coordinators review with all families the opt-out notice on the IFSP to inform families of the information to be disclosed in the notification to the Virginia Department of Education and the local educational agency (child’s name and date of birth and parent contact information), the right of the parent to opt out of disclosure, the period of time the parent has to notify the local lead agency that the parent is opting out, and how the parent can opt out in writing.
6. Ensure the continuity of services by:
   * + Referring, with parent consent, children who are potentially eligible for Part B to the local school division by April 1; and
     + Transferring child-specific information, with parent consent, including eligibility and assessment information and copies of IFSPs, by the same date.

Exceptions to the date must be documented and the referral processed as quickly as possible following the parent’s consent.

1. In the case of a child who may be eligible for preschool services under Part B, with the approval of the family, convene and ensure Part C participation in a conference among the local Part C system, the family and the local educational agency not less than 90 calendar days and, at the discretion of all parties, not more than 9 months before the child is eligible for preschool services under Part B of IDEA to discuss any such preschool services the child may receive;
2. In the case of a child who may not be eligible for preschool services under Part B, with the approval of the family, make reasonable efforts to convene a conference, with the approval of the family, among the local Part C system, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B, to discuss the appropriate services the child may receive;
3. Establish a transition plan in the IFSP, including a review of program options from the child’s third birthday through the remainder of the school year, not fewer than 90 calendar days and, at the discretion of all parties, not more than 9 months before the child’s third birthday (or before the child is age eligible for Part B preschool services if the child will transition prior to age 3) and include in the transition plan:
   * + Steps for the child and family to exit from the Part C program;
     + Any transition services the IFSP team identifies as needed by the child and family;
     + Confirmation that child find information has been transmitted to the local educational agency consistent with the opt-out procedures specified in the *Infant & Toddler Connection of Virginia Practice Manual*; and
     + Confirmation that the local lead agency has transmitted additional information such as the most recent evaluation (eligibility determination), assessments, and IFSP, with parent consent.

The IFSP meeting to develop the transition plan may be combined with the transition planning conference as long as the requirements for IFSP meeting accessibility, notice, consent, and participants, including the family, are met; and

1. Support the transition of children referred late to Part C as follows:
   * + If the child is found eligible for Part C more than 45 calendar days but less than 90 calendar days before the child’s third birthday, provide notification to DOE and the local educational agency for the area in which the child resides as soon as possible after determining the child’s eligibility that the child will shortly reach the age of eligibility for Part B services.
     + If the child is referred to the Infant & Toddler Connection of Virginia fewer than 45 calendar days before the child’s third birthday and the child may be eligible for preschool services under Part B, refer the child to DOE and the local educational agency for the area in which the child resides, with parent consent.
2. Apply the transition notification, transition conference and transition plan requirements described in VII.A.1.a-h to all Part C children approaching their third birthday.
3. Maintain financial responsibility and pay for supports and services listed on the IFSP until the child’s third birthday or the earlier date on which the child begins Part B services (e.g., the beginning of the school year in which the child is 2 years old by September 30), to the extent funding is available and to the extent those services are not otherwise paid for by public or private insurance, family fees or other third party payor sources. DBHDS remains financially responsible for 2-year-olds who choose not to transition to Part B until their third birthday or who initially transition to Part B but choose to return to Part C prior to their third birthday.
4. Share data including, but not limited to, the following:
5. Child outcome data, with parent consent; and
6. Other data, with parent consent, as appropriate to meet reporting needs and improve services;
7. Work collaboratively with the Department of Education (DOE) towards a common identifier in the Part C and Part B data systems that will facilitate sharing of data and longitudinal tracking and data collection; and
8. Ensure all data sharing, including that referenced in VII.A.2 and VII.A.3 of this agreement, is in accordance with IDEA requirements for parent consent and confidentiality (at 34 CFR §§303.401 through 303.421).
9. **The Department of Education shall:**
10. Require local school divisions to:
11. Enter into local interagency agreements with the Part C local lead agency to specify local roles and responsibilities for accomplishing the transition planning and activities required under Part C and Part B of IDEA;
12. Accept notification from the local Part C system of children who are residing in the community who are potentially eligible for Part B services and process the referrals, with parent consent, including child-specific information from the local Part C system. Once the local educational agency receives notification for such a child, the local educational agency must treat this as an initial referral to Part B and provide notice of procedural safeguards to the child’s parent under 300.504(a)(1);
13. Participate in the individual transition planning conference between the family, the local Part C system and the local school division not less than 90 calendar days and, at the discretion of all parties, not more than 9 months before the child’s third birthday or the date on which the child will be eligible under Part B of IDEA;
14. Review the evaluation/assessment data transmitted from the Infant & Toddler Connection of Virginia to determine if it is appropriate or sufficient to assist in determining the eligibility of a particular child for special education and related services. The local school division shall utilize this information whenever appropriate to avoid unnecessary reassessment and delays in services;
15. Inform parents of their option to invite the Part C service coordinator or other Part C representative to the initial Individualized Education Program (IEP) meeting and invite the Part C service coordinator or other Part C representative if the parent so requests;
16. Consider when developing the initial IEP the child’s IFSP that contains the IFSP content, including the natural environments statement, and an educational component that promotes school readiness and incorporates pre-literacy, language and numeracy skills for children with IFSPs who are at least three years of age;
17. Develop and implement an initial IEP specifying the child’s program as of his/her third birthday or the earlier date on which the child is eligible to begin Part B services (e.g., the beginning of the school year in which the child is 2 years old by September 30); and
18. Accept financial responsibility and pay for all special education and related services, as listed on an Individualized Education Program (IEP), to a Part B eligible child beginning on the child’s third birthday or the earlier date on which the child is eligible for and the parent chooses to begin Part B services (e.g., the beginning of the school year in which the child is 2 years old by September 30 or some other point between the beginning of the school year and the child’s third birthday if the local school division offers rolling admission). DBHDS shall remain financially responsible for 2-year-olds who choose not to transition to Part B until their third birthday or who initially transition to Part B but choose to return to Part C prior to their third birthday;
19. Share data including, but not limited to, the following:
20. Child outcome data, with parent consent;
21. Verified Section 618 child count data on children under three served through Part B to DBHDS in January of each year for reporting to OSEP; and
22. Other data as appropriate to meet reporting needs and improve services; and
23. Work collaboratively with DBHDS toward a common identifier in the Part C and Part B data systems that will facilitate sharing of data and longitudinal tracking and data collection.
24. Ensure all data sharing, including that referenced in VII.B.2 and VII.B.3 of this agreement, is in accordance with IDEA requirements for parent consent and confidentiality (at 34 CFR §§303.401 through 303.421).