Part C Infrastructure Task Force Report

Public Comment Draft

I. Executive Summary

II. Background

In August 2003, a group of stakeholders was convened by the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to examine Virginia's Part C system, identify the system's unique strengths and challenges, and make recommendations about infrastructure changes that will improve Virginia's Part C system. The task force membership is comprised of state agency representatives, members of the Early Intervention Interagency Management Team, DMHMRSAS staff, CSB Executive Directors, CSB MR Directors, local council coordinators, private providers and families (Appendix A provides a list of task force members). At the first meeting of the task force, Virginia's Secretary of Health and Human Resources, Jane Woods, charged the group with developing recommendations that are driven by and built around effective service delivery for eligible children and their families.

Aspects of the Part C infrastructure examined and discussed included, but were not limited to, the following: what agency should be Virginia's Lead Agency for the Part C system; the relationship of the Lead Agency with other state agencies involved in Part C; the roles and responsibilities of the local interagency coordinating councils; the issues and difficulties in service delivery; and the process for contracting with localities for implementation of Part C to ensure accountability for receiving and managing Part C funds as well as implementing Part C programmatic requirements. In order to address the complex issues related to implementation of Part C, the task force formed three committees: Service Delivery, Infrastructure, and Local Contract.

The task force also adopted the following set of guiding principles to be used in all decision-making:

- Children and families will remain the primary focus of the task force throughout the process of studying the issues and considering possible solutions.
- The task force will consider its work in the context of the following criteria:
  - The impact on stakeholders and partners, including caregivers, providers, schools, other public entities, taxpayers, the medical community, the General Assembly, insurance providers, businesses, and the multilingual community will be fully examined.
  - Interim or short-term solutions, as well as long-term solutions, will be identified and implemented when appropriate.
  - Potential unintended consequences will be anticipated and possible solutions identified.
  - The proposed solutions will:
    - Be in compliance with federal regulations;
    - Maintain or increase families' access to supports and services;
    - Maintain or enhance the quality of supports and services;
    - Promote quality and consistency across the state while maintaining local flexibility;
    - Support evidence-based early intervention practices;
    - Be the most cost effective/efficient solution to simplify administrative and programmatic paperwork;

- Provide the most cost-effective and time efficient mechanism to collect essential data;
- Include a mechanism for continuously evaluating the effectiveness of the system especially in response to changes in the external environment, including changes in federal and state regulations, funding sources, etc.; and
- Be relatively easy to modify when evaluation indicates that changes are needed.

III. Brief History of Virginia's Part C System/Description of Current Administrative Structure

The development and implementation of early intervention programs across Virginia was facilitated by local initiative in the 1970s. In 1980, prevention/early intervention was recommended as a core service for the local Community Services Boards (CSBs). Historically, then, CSBs were the primary providers of early intervention services in Virginia (using state mental retardation funds targeted for early intervention services beginning in the early 1980s).

Federal early intervention legislation was enacted by Congress in 1986 as an amendment to the Education of Handicapped Children's Act to ensure that all children with disabilities from birth to three would receive appropriate early intervention services. This amendment formed Part H of the Act, which was re-authorized in 1991 and renamed the Individuals with Disabilities Education Act (IDEA). When the IDEA was re-authorized in 1998, Part H became Part C of the Act.

Virginia has participated in the federal early intervention program (under IDEA) since its inception. In 1992, the Virginia General Assembly passed state legislation, which codified an infrastructure for the early intervention system that supports shared responsibility for the development and implementation of the system among various agencies at both the state and local levels. This legislation was designed to help Virginia meet federal regulations and guidelines by facilitating a move from a model of programmatic, single-agency responsibility for service provision to an interagency, shared responsibility for developing the early intervention system and providing direct services to infants and toddlers with disabilities and their families.

The *Code of Virginia* (§§ 2.2-2664 – 2.2-5308), which was revised in 2001, provides the framework for Virginia's Part C early intervention system as follows:

- Defines "participating agencies" as the Departments of Health, of Education, of Medical Assistance Services, of Mental Health, Mental Retardation and Substance Abuse Services and of Social Services; the Departments for the Deaf and Hard of Hearing, for the Blind and Vision Impaired, and for Rights of Virginians with Disabilities; and the Bureau of Insurance within the State Corporation Commission.
- Establishes an Early Intervention Agencies Committee at the state level to ensure the implementation of a comprehensive system for early intervention services;
- Specifies that the Governor-appointed Lead Agency (currently DMHMRSAS) has responsibility for administering the statewide interagency system of Part C early intervention services.
- Establishes local interagency coordinating councils across the state to enable early intervention service providers to:
    - establish working relationships that will increase the efficiency and effectiveness of early intervention services;

  - identify existing early intervention services and resources;
  - identify gaps in the local service delivery system;
  - identify alternative funding sources; and
  - develop local procedures and mechanisms for implementing policies and procedures in accordance with state and federal statutes and regulations.
- Specifies the duties of participating agencies at the state and local levels.

Please see Appendix B for the full text of the *Code of Virginia* sections related to Part C early intervention.

Within the infrastructure established by the *Code of Virginia,* the broad parameters for Virginia's Part C system are established at the state level to ensure implementation of federal Part C regulations. Within the context of these broad parameters, localities determine exactly how their Part C systems will look based upon local resources and needs. In order to support local implementation of the requirements of the *Code of Virginia*, Virginia's Part C Policies and Procedures further delineate that each local interagency coordinating council is, among other things:

- Strongly encouraged to be staffed by a local council coordinator;
- Required to elect a chairperson to preside over council operations; and
- Required to designate a fiscal agent to administer Part C funds at the local level.

In order to disseminate Part C funds to localities and establish local accountability for Part C fiscal and programmatic requirements, DMHMRSAS signs a contract annually with the local council and the local fiscal agent. However, the *Code of Virginia* provides no legal authority by which the local interagency coordinating council can enter into a contract for continuing participation in Part C. Similarly, the fiscal agent cannot be required to carry out Part C programmatic activities on behalf of the local council. Therefore, the current "contract" is unenforceable (it is neither a legal contract nor a provider agreement).

<u>Strength</u>:
There are strong local working relationships among agencies/ providers that have been cultivated over time.

<u>Challenge</u>:
The existing contract is not enforceable and the local council has no authority under which to enter into a contract.

IV. Summary of Funding Issues in Virginia's Part C System

V. Summary of Service Issues in Virginia's Part C System

(Report from Services Committee of Task Force)

VI. Overlap of Administrative, Funding and Service Issues

VII. Profiles of Current Part C Infrastructure in Virginia and in Five Other States Studied by the Task Force

The task force examined the Part C systems of five other states to help inform the group's efforts to develop and analyze possible infrastructure alternatives for Virginia. The five states were selected based on discussion with the National Early Childhood Technical Assistance Center (NECTAC) and chosen to reflect a variety of billing systems, lead agencies, and administrative structures (e.g. local councils, regional systems, etc.). The states interviewed were North Carolina, Maryland, Kentucky, Indiana, and Louisiana. The questions used in gathering information from these five states fell into the following categories:

- Service Issues
- Natural Environment Issues
- Local System Issues
- General Finance Issues
- Insurance/Medicaid/Payment Issues
- Central Billing Issues

The full list of questions asked is provided in Appendix **. The table provided in Appendix ** summarizes the information gathered from the five states as well as corresponding information about Virginia's current infrastructure.

VIII. Possible Infrastructure Alternatives for Virginia's Part C System

Based on the discussions of the task force and their review of Part C systems in five other states, three infrastructure alternatives were identified for further consideration by the task force:

1. State Lead Agency contracts with local lead agencies
2. State Lead Agency contracts with regional lead agencies
3. State Lead Agency contracts directly with Part C early intervention provider agencies statewide.

Each of the three infrastructure alternatives considered by the task force is discussed in more detail in Appendix **. The role of the state lead agency, role of other state agencies, role of the local interagency coordinating council, role of local participating agencies/providers, flow of funds, billing system, and the pros and cons are examined for each alternative. [Note to task force: this appendix would include the original alternatives presented in January. "Questions for Further Consideration" would be deleted for each alternative and "Pros and Cons" would be updated to reflect information gathered since they were originally drafted (e.g. cost info for state and regional billing systems)]

The infrastructure alternatives were discussed and evaluated by the task force in the context of the following five questions:

1. Does the alternative make sense administratively?
2. What will be the impact on children and families?
3. What will be the impact on service providers?
4. How will overall system coordination occur?
5. What will be the interface with systems components, such as child find, public awareness, technical assistance, and monitoring?

IX. Recommendations of the Task Force

[Information on rationale for recommendations will be added]

State Lead Agency
Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS)

Role of the State Lead Agency
The role of the state lead agency remains largely the same as in Virginia's current infrastructure. The state Lead Agency is responsible for ensuring a statewide system of early intervention services is in place for all eligible children and families in accordance with Part C of IDEA. The state Lead Agency is also responsible for statewide supervision and monitoring and statewide public awareness and provides technical assistance to the local lead agency, the LICC, and providers. Based on monitoring results and data review, the state Lead Agency determines priorities associated with and allocates funding for child find to local lead agencies, as appropriate.

Role of Other State Agencies Involved in Part C
The other state agencies involved in Virginia's Part C system remain involved in the Early Intervention Interagency Management Team and the VICC. They provide leadership and guidance to their local counterparts about ways in which they can be involved in the local Part C system (e.g. provision of supports and services; involvement with systems components like public awareness, child find or data collection; participation on the LICC; provision of financial support; etc).

Role of the Local Lead Agency
In each of the 40 local council areas, the CSB (or its designee) serves as the local lead agency. Responsibilities include ensuring that a local system of early intervention services is in place and meets all Part C regulations and state Part C Policies and Procedures (including those related to public awareness, child find, evaluation and assessment, IFSPs, personnel, data collection, natural environments, monitoring, procedural safeguards, etc) and that all Part C fiscal and program assurances are met. In addition, the local lead agency receives Part C funds from the state lead agency, contracts or otherwise arranges for services with local providers, prepares and submits budget and expenditure reports, etc. The local lead agency may also be a service provider in the local system.

Responsibilities related to being the Part C local lead agency would be detailed in a contract between DMHMRSAS and the local lead agency. If the local CSB or its designee elects not to sign the contract with DMHMRSAS, then DMHMRSAS would have the responsibility of identifying another public entity with whom to contract for the local Part C system in that area.

Role of the LICC
The LICC would advise and assist the local lead agency in implementing the local Part C early intervention system (in the same way that the VICC advises and assists the lead agency at the state level). The need for a core group, as currently outlined in the Code of Virginia would be eliminated since all fiscal and policy decisions would be made by the local lead agency.

Role of Local Participating Agencies/Providers

The local participating agencies/providers carry out the responsibilities outlined in contracts with the local lead agency and/or in local interagency agreements. Such responsibilities may include provision of supports and services; involvement in systems components like public awareness, child find and data collection; and participation on the LICC. In addition, all local participating agencies/providers are responsible for meeting all Part C requirements (e.g. personnel standards, procedural safeguards, etc.).

Flow of Part C Funds

Part C funds are allocated from the state Lead Agency to each of the 40 local lead agencies through a Part C contract with DMHMRSAS. As local lead agency, the CSB (or its designee) contracts with local Part C service providers as needed. The local lead agency may also be a provider of services. The local lead agency provides budget and expenditure reports to the Lead Agency.

The local lead agency

Billing System

The local lead agency is responsible for ensuring that all available sources of funding are accessed for payment for Part C services in accordance with Part C payor of last resort and non-supplanting requirements. The local lead agency ensures that Medicaid and other third party payors are billed, as appropriate, and that the statewide ability to pay procedures to determine and collect family fees is implemented.

APPENDICES