

Evaluating Virginia's Part C System

Significant Discussion Points

Background

Virginia has participated in the federal early intervention (under IDEA) program since its inception. In 1992, the Virginia General Assembly passed state legislation that 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 for providing direct services to infants and toddlers with disabilities and their families. The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) serves as the lead agency for early intervention services in Virginia.

Issues related to the current process of contracting with localities:

- There is no legal authority for the local council to enter into the contract for continuing participation in Part C under the *Code of Virginia* § 2.2-5300 et.seq.
- The Local Contract for Continuing Participation in Part C is not a contract and it is not a provider agreement.
- A fiscal agent only has the authority to carry out activities that its principle, the LICC has.
- The contract is unenforceable.
- Virginia Code § 2.2-2664 establishes the Virginia Interagency Coordinating Council however; local councils and fiscal agents are not required to comply with this provision.

Current structure of the Part C System – relevant *Code* citations:

- **§ 2.2-5305. (Effective October 1, 2001) Local interagency coordinating councils**
 - ☑ Establishes local interagency councils on a statewide basis and identifies the membership of the council, the duties of the membership, facilitating the development of interagency agreements, and assisting in the implementation of policies and procedures for compliance with federal and state statutes and regulations
 - ☑ Establishes implementation of consistent and uniform policies and procedures for to determine parental liability and to charge fees for early intervention services pursuant to regulations, policies and procedures adopted by the lead agency in § [2.2-5304](#).
 - ☑ Establishes that localities are not required to fund any costs under this chapter either directly or through participating local public agencies. (1992, c. 771 § 2.1-766, 2001, cc 562, 844

- **§ 2.2-5306. (Effective October 1, 2001) Duties of local public agencies**

- Local public agencies represented on local interagency coordinating councils are responsible for providing services as appropriate and agreed upon by members of the local interagency coordinating council
- Maintaining data and providing information as requested to their respective state agencies
- Developing and implementing interagency agreements
- Complying with applicable state and federal regulations and local policies and procedures
- Following procedural safeguards and dispute resolution procedures as adopted by the Commonwealth. (1992, c. 771, § 2.1-767; 2001, c. 844.)

- **The Local Contract – Significant requirements from the contract:**

- Implement Part C requirements and the statewide uniform ability to pay policies and procedures.
- Re-evaluate local policies and procedures annually and revise as needed to ensure effectiveness.
- Implement, review and revise the signed local interagency agreement(s), contract(s), and memoranda of understanding, as necessary, to ensure that all local participating agencies/providers agree to comply with Part C requirements when providing Part C services.
- Ensure that the LICC has both a council chairperson and council coordinator.
- Fully implement local mechanisms to meet Part C assurances, including review and revision as needed.
- Identify potential informal resources and supports within the community to ensure payor of last resort provisions are met and to increase service capacity.
- Establish and implement local interagency agreement(s), contract(s), and memoranda of understanding with additional local public and private agencies/providers, as necessary, to ensure compliance with the payor of last resort provision and to meet the needs of children and their families (IFSP and other services).
- Access all appropriate sources of funding and services prior to the use of Federal Part C funds for early intervention services or activities.
- Develop, manage and revise local Part C budgets, as necessary, in accordance with Contracting Agency requirements and procedures.
- Respond to data requests from the Contracting Agency including, but not limited to federal and State-required data and other requested data in accordance with timelines established by the Contracting Agency.
- Work with the Contracting Agency to ensure that an interagency system budget, including revenues from all sources, for Part C early intervention services is submitted with the local contract.

- ☑ Participate in Virginia's Monitoring and Improvement Measurement System (MIMS).

Bullets below are from the original agenda

- Infrastructure of Virginia's Part C System
- There is no legal authority for the local council to enter into the contract for continuing participation in Part C under the *Code of Virginia* § 2.2-5300 et.seq.
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Recommendations for short-term strategies:

- Evaluate pros and cons of 1) amending the *Code of Virginia* to provide the legal authority for local interagency coordinating councils to enter into contracts and specifically provide for a fiscal agent under Virginia Code § 2.2-5300, or 2) remove from the Code of Virginia local interagency coordinating councils and their responsibilities
- Amend Virginia Code § 2.2-2664. This section of the Code establishes the Virginia Interagency Coordinating Council however; local councils and fiscal agents are not required to comply with this provision.
- Establish local CSBs as lead agencies for purposes of administering the local Part C system similar to the designation of a Lead Agency at the state level while at the same time preserving interagency participation at the local level to meet federal requirements for a comprehensive system of services for Part C eligible children. This alternative maintains the current structure of state-supervised and local administration of early intervention.

Long-term strategies and alternatives for re-structuring Virginia's Part C System:

- Evaluate the pro and cons of establishing a centralized billing through the Lead Agency (DMHMRSAS). Under this alternative all early intervention services are billed through a central billing and information system and payments made by the state from multiple fund sources. All providers of early intervention services sign a provider agreement with the state and this agreement enrolls the agency or individual provider and enrollment in

the provider network authorizes them to bill the early intervention program. State rates are established in regulation and all providers bill accordingly.

- Evaluate the pros and cons of establishing a process for competitive bidding for the provision of early intervention services through RFP's or other procurement mechanisms through the Lead Agency (DMHMRSAS). Under this alternative, all early intervention providers would respond to the RFP and would meet certain criteria (cost per service, geographic area served, qualified personnel, etc.) in order to be included in the provider network. All providers would sign agreements with the state and rates are established in regulation.
- Evaluate the pros and cons of the transfer Virginia's Part C program to another state agency.

Three sub-committees:

Contract issues

Service delivery issues

Infrastructure

Work plan for each subcommittee

Information from other states

Public comment and dissemination