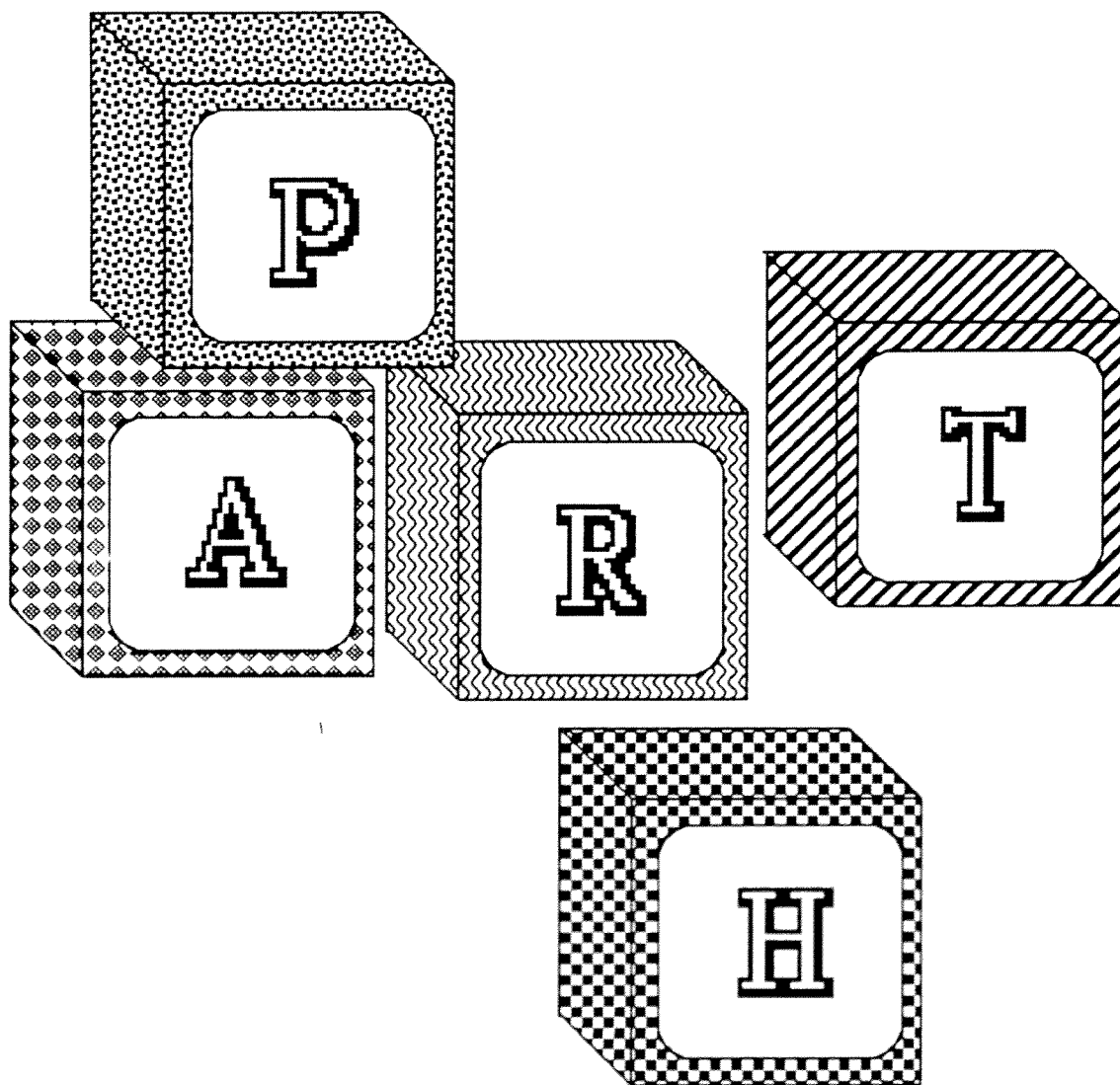


**MEMORANDUM OF UNDERSTANDING
AMONG the COLORADO DEPARTMENTS OF
HEALTH, INSTITUTIONS, SOCIAL
SERVICES, AND EDUCATION for the
IMPLEMENTATION in COLORADO of
PART H of the INDIVIDUALS WITH
DISABILITIES EDUCATION ACT**



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I. STATEMENT OF COMMON PURPOSE

This Agreement among the Colorado Departments of Health, Institutions, Social Services and Education relates to the implementation of Part H of the Individuals with Disabilities Education Act (IDEA) in Colorado.

It is the mutual goal of the agencies to develop and implement an appropriate statewide, comprehensive, coordinated system of early intervention services and supports for all eligible infants and toddlers from birth through two years of age with developmental delays or at-risk as defined by the Colorado Interagency Coordinating Council. In keeping with the intent and requirements of the law, this agreement documents interagency coordination and collaboration under the administrative leadership of the Departments involved.

State departments have authority to manage service delivery through contracts, grants, policies and procedures, or regulations. It is the intent of this Agreement to assure the following:

- A. The development of an interactive, cooperative relationship at the State level to minimize duplication of services and supports and to assist local communities to develop cooperative relationships which result in effective and efficient services and supports for eligible infants, toddlers and their families.
- B. Cooperative fiscal planning will maximize utilization of available funds in providing services and supports to the eligible population of infants and toddlers with developmental delays and their families.

II. AUTHORITY FOR AGREEMENT

Colorado is committed to developing and implementing a coordinated, comprehensive, interagency service and support delivery system for all eligible infants and toddlers with developmental delays. This commitment is evidenced by the acceptance of funds in the Part H Federal Grant Program. In 1987, Governor Romer appointed the Colorado Department of Education as the lead agency to administer the Part H program at the State level and appointed members to an Interagency Coordinating Council (ICC) to advise and assist the lead agency in the provision of early intervention services and supports.

Federal law and regulations require cooperation between State departments responsible for the administration and/or supervision of both Title V and Title XIX of the Social Security Act. As a condition of receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA), States were directed to ensure cooperation among Departments involved in delivering services and supports to infants and toddlers with developmental delays and their families.

The responsibilities and objectives delineated in this agreement are referenced and supported in the following federal legislative statutes:

- Public Law 102-119: Individual with Disabilities Education Act addresses special education and related services for children with disabilities. In addition, Public Law 100-297, Chapter I, funding for Handicapped Children Served in State-Operated and State-Supported Programs, is administered through the Colorado Department of Education.
- Part H: Amendments to Individual with Disabilities Act charges States to develop and implement a comprehensive, coordinated, interagency system of services and supports for infants and toddlers with developmental delays and children at-risk for developmental delays as determined by the ICC and their families to ensure cooperation among departments.
- Public Law 101-476: Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.
- Title XIX of the Social Security Act (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.
- Title V of the Social Security Act, section 505 (2) (E) allows for the participation with other state programs involved with the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program carried out 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 WIC, related educational programs, and other health and developmental disability programs.
- Public Law 101-147, Section 17 authorizes a supplemental food program for Women, Infants, and Children. The January 1990 Consolidation of the Child Nutrition Act requires the WIC Program to coordinate with other state programs such as well-child care, maternal and child health care, and medicaid.
- Public Law 101-508 authorizes the implementation of a child care and development block grant. The purpose of this block grant is to increase the availability, affordability, and quality of child care. The plan from Colorado includes the funding for purchase of child care for low-income families, state and local licensing improvement, resource and referral, provider training, early childhood development and school-age programs and provider start-up loan funds.

34 CFR 303.523 requires the lead agency to enter into interagency agreements with other State departments involved in the State's early intervention program.

Therefore, this Agreement is to enable the State departments to cooperate and coordinate as authorized by these Federal statutes and regulations.

III. INTENDED OUTCOMES

The Colorado Departments of Health, Institutions, Social Services and Education serve infants, and toddlers with developmental delays or at-risk for developmental delays. These Departments have committed fiscal and personnel resources to provide a statewide early intervention service delivery system.

It is understood by the parties to this Agreement that these efforts should be sustained and, where possible, enhanced by increased coordination to achieve the goal of statewide accessibility of early intervention services and supports for all eligible infants and toddlers and their families.

Intended outcomes of this Memorandum of Understanding are enhanced and expanded early intervention services and supports through increased coordination and through continued participation in the Federal Part H program.

It is agreed that potential benefits from cooperation among the State departments include the following:

- A. Maximum utilization of funds and resources.
- B. Increased coordination between Departments in order to minimize unnecessary duplication of effort.
- C. Increased collaboration with respect to shared expertise and planning based on the priorities, resources and concerns identified by the families of infants and toddlers with developmental delays or at-risk for developmental delays.
- D. Increased ease of access for families seeking services and supports from multiple systems.
- E. Increased satisfaction of families with respect to early intervention services and supports.

IV. MUTUAL OBJECTIVES

It is agreed by the parties to this Memorandum of Understanding that each will support the attainment of the following mutual objectives at the State and local level through contracts, grants, policies and procedures or regulations.

- To provide coordinated, interagency evaluations to determine eligibility for Part H of infants and toddlers at no cost to the families.
- To provide service coordination which means the activities carried out by a service coordinator to assist and enable an infant or toddler eligible under this part and the child's family to receive the rights, procedural

safeguards, and services and supports that are authorized to be provided under the State's early intervention system of services and supports at no cost to the families.

- To provide eligible infants and toddlers with an Individualized Family Service Plan developed in cooperation with the family and at no cost to the family.
- To provide eligible infants and toddlers with appropriate and necessary services and supports as identified on the Individualized Family Service Plan utilizing available public and private funding sources, including sliding fee scales.
- To recognize and support family members to be active participants in the development and implementation of their child's Individualized Family Service Plan.
- To support family members to be active participants at all levels of the development and implementation of the statewide, comprehensive, interagency service and support delivery system.
- To share information about eligible infants and toddlers to the extent necessary and consistent with the confidentiality requirements of this part in order to get accurate and unduplicated counts for the U.S. Office of Special Education Programs for the Federal reporting requirements.
- To provide coordinated training and technical assistance as appropriate for parents and service providers across Departments.
- To provide information, names of resources, and referral about services and supports to a statewide central directory in order to provide an information and referral service for families and service providers.
- To provide technical assistance in the establishment and maintenance of local interagency coordinating councils concerned with early intervention services and supports.

V. VALUES BASE FOR THE SERVICE AND SUPPORT DELIVERY SYSTEM

The basic values that should drive services and supports for eligible infants and toddlers and their families are:

- View children and families from a capacity model rather than a deficit model;
- Concentrate on the identified needs of the child within the context of the family;
- Empower parents as active and equal partners in the decision making processes;
- Provide choices and options of services and supports to children and families that are in natural environments, including the home and community settings in which children without disabilities participate; and
- Utilize existing resources in creative and flexible ways that are responsive to individual community differences.

VI. OPERATING PRINCIPLES FOR THE SERVICE AND SUPPORT DELIVERY SYSTEM

The following principles encompass the components delineated in Part H of IDEA for the implementation of the coordinated, statewide, comprehensive, interagency early intervention system of services and supports.

A. Family Involvement

Families hold the primary responsibility for nurturing the development of their children. The best interests of children are served when parents and professionals work in partnership. Therefore, services and supports should be responsive to resources, priorities and concerns of families and accommodate families rather than families accommodating the services. Families shall be actively involved in and informed of all aspects of the Part H service and support delivery system.

B. Child Identification Process

The child identification process is a proactive, well-publicized, on-going, and easily accessible process that is sensitive to the integrity of the family. The child identification process is a collaborative, community directed, interagency effort to locate, evaluate, and identify infants and toddlers with special needs and to assist families in accessing community resources and early intervention services and supports.

The child identification effort will be coordinated with other major efforts conducted by departments to locate and identify children.

C. Interagency Cooperation and Coordination

The varied and unique needs of families with infants and toddlers with developmental delays or at-risk for delays have created a need for the development and implementation of a system of multiple service and support approaches.

In enacting Part H, Congress made clear that the success of the program is dependent upon interagency coordination, both in providing and paying for appropriate early intervention services and supports. It was recognized that no one agency would ever be able to deliver the full array of services and supports that may be described in the Individualized Family Service Plan. Each agency offers its own unique set of skills, experiences and expertise. The scope of the Part H delivery system requires that eligible infants and toddlers and their families have easy access to the services and supports offered by all agencies. Therefore, interagency coordination is essential at the State and local level.

D. Natural Environments for Services and Supports in the Local Community

Families and their children should have access to natural environments for services and supports in their community. This principle of communitybased services and supports will be sought by all agencies. To the greatest extent

possible, the family will have a choice for their eligible infant or toddler to receive services and supports in settings with other children of his or her age and in which children without disabilities participate.

E. Non-supplanting of Funds

According to 34 CFR 303.124, Part H funds are to be used to supplement and increase the level of State and local funds expended, and in no case to supplant State and local funds. Sec. 681(b), Part H specifies that a state cannot reduce medical or other assistance available or alter eligibility under Title V of the Social Security Act or Title XIX within the State. Accordingly, the parties to this agreement assure continued provision of available resources to deliver early intervention services and supports to infants and toddlers with developmental delays and their families insofar as they have control over these resources.

VII. FINANCIAL RESPONSIBILITY

Evaluation and service coordination will be provided to eligible infants and toddlers without imposing fees on the families. Also fees will not be charged for staff time related to the development of the Individualized Family Service Plan (IFSP). Fees may be charged for other services and supports in accordance with State statutes and agency regulations.

The parties to this agreement recognize that many of the following programs are operated under a diverse set of State and federal regulations. The Departments involved in this Memorandum of Understanding assure that funds available under Part H, will be used to supplement and increase the level of services and supports and shall in no case be used to supplant state and local funds, insofar as Departments have control of such funds.

Colorado Department of Social Services will finance and provide:

- the physical screening examination portion of evaluations for Medicaid eligible children birth through two under the EPSDT Program. The screening examination portion of the evaluation includes physical health, vision, hearing, dental, gross motor, fine motor and nutrition;
- specific procedures for providers of EPSDT screening services to identify health problems that may require intervention and convey the evaluation outcomes and recommendations for incorporation into the Individualized Family Service Plan;
- services for which federal financial participation is available whether or not such services are included in the Colorado State Medicaid Plan, that are identified as medically necessary services as a result of an EPSDT screening. These medically necessary services (as a result of an EPSDT screening) will then be included as a part of the Individualized Family Service Plan for EPSDT participants;
- collaboration in the development of quality models that serve children with development delays in early childhood development programs and in the provision of training for child care providers and workers to ensure

children with developmental delays have access to natural environments such as child care centers where children without disabilities participate; and

- adherence to federal guidelines regarding use of Child Care Block Grant monies for special needs populations in order to implement a coordinated, comprehensive system of services and support for families with infants and toddlers with developmental delays.

Colorado Department of Institutions/Division for Developmental Disabilities will finance and assure that designated service agencies:

- provide service and support coordination, early intervention services and family support services to children eligible pursuant to CRS 27-10.5;
- coordinate with the local interagency effort regarding outreach, identification, screening, and multidisciplinary assessment, and eligibility determination for families served by the community centered boards who request such services;
- use available funds, public and private, as appropriate to develop and achieve the provision of services and supports for eligible infants and toddlers as described in the Individualized Family Service Plan; and
- collaborate in the development of an early intervention system of services and supports that will provide choices and options for families with infants and toddlers who have developmental delays or at-risk for developmental delays for the identified services and supports to be delivered in natural environments, to the extent possible, where children without disabilities participate.

Colorado Department of Health will finance and provide:

- consultation, assessment, specialty medical care, and service coordination services to children with special health care needs through the Colorado Handicapped Children's Program/Children with Special Health Care Needs;
- age appropriate preventive health services through local health agencies to assist in the reduction of risks for childhood injury and disease;
- comprehensive, age-appropriate preventive and acute care services for eligible infants and toddlers;
- service coordination activities to infants and toddlers eligible for their services and will participate in the development of an Individualized Family Service Plan for these children;
- the use of available funds, public and private, as appropriate to develop and achieve the provision of services and supports for eligible infants and toddlers as described in the Individualized Family Service Plan;
- interagency developmental-evaluation clinic services to children and their families and participate in coordinated child identification processes, when appropriate; and

- health assessments, nutritional counseling and provision of a specific foods to maximize the optimal nutrition status for pregnant and breast feeding women, infants and children to age three through the provision of the Women, Infants and Children Program.

The Colorado Department of Education will finance and provide:

- the coordination of the activities of the Part H system of services and supports which include the development and implementation of policies and procedures for the early intervention delivery system;
- the development of state and local interagency coordinating councils in order to assure the implementation of a coordinated, comprehensive, interagency early intervention system of services supports;
- a central directory of information and referral resources to ensure access to information for families with infants and toddlers with developmental delays;
- a coordinated public awareness initiative with other Departments throughout the State that increases the general public's awareness of the effectiveness, need and availability of early intervention services and supports;
- ensure that each local education agency will assume responsibility for an interagency child identification process to identify, locate, and evaluate infants and toddlers to determine eligibility for Part H services and supports;
- ensure that service coordination activities will be provided to infants and toddlers eligible for services and supports and their families and that the development of an Individualized Family Service Plan will be accomplished;
- the use of available funds, public and private, as appropriate to develop and achieve the provision of services and supports for eligible infants and toddlers as described in the Individualized Family Service Plan;
- technical assistance and training, upon request, to state and local community agencies and organizations to ensure the implementation of Part H within Colorado;
- the development of procedures to compile data required for reporting to the Federal Office of Special Education Programs; and
- the administrations of funds received under Part H for the administration and implementation of the early intervention service and support delivery system in Colorado.

VIII. PROCEDURES FOR RESOLUTION OF SYSTEMIC DISPUTES

Departments recognize the complexity of interagency coordination of a program as comprehensive as Part H of IDEA. The Departments will strive to keep communication open and frequent at both informal and formal levels.

The Colorado Interagency Coordinating Council and the lead agency will function as avenues for open communication among all the agencies providing early intervention services and supports to eligible infants and toddlers and their families.

Procedures for timely resolution of such disputes which are binding upon all the departments signing this Memorandum of Understanding include the following:

- The involved agencies will utilize their internal administrative dispute procedures.
- Discussions will be held at the local level among all the involved Departments and the Part H lead agency, as necessary.
- If resolution is not achieved at the local level, the agencies involved will forward all relevant information to representatives from the Colorado Interagency Coordinating Council and the lead agency. After reviewing all aspects of the issue, the representatives shall make a recommendation for resolution of the dispute. If the resolution cannot be reached by designees of the respective agencies, it will be forwarded to the Governor for resolution.
- During the pendency of a dispute the lead agency shall assign financial responsibility to the appropriate State agency based upon statutory obligation or pay for the services and supports, in accordance with "payor of last resort" provisions in 34 CFR 303.527 and assure that services not in dispute begin and/or continue for the child and family during the period that it takes for the dispute to be resolved.

If, in resolving the dispute it is determined that that the assignment of financial responsibility was inappropriately made, the financial responsibility will be reassigned to the appropriate agency and make arrangements for reimbursement of any expenditures incurred by the agency originally assigned responsibility.

IX. PROCEDURAL SAFEGUARDS

The lead agency is responsible for the establishment of procedural safeguards to ensure the rights and entitlements of families, as required in the Part H statutes and regulations, are met.

These procedural safeguards include:

- Right to review, correct and supplement records
- Right to prior notice of meetings and information provided in native language
- Parental consent prior to evaluations, IFSP development and provision of services and supports
- Surrogate parents identified when necessary

- Dispute resolution of individual complaints
- Administrative resolution of complaints
 - Parents rights in administrative hearings
 - Timelines and convenience of proceedings
- Right to civil litigation
- Rights of child during proceedings
- Confidentiality of records

X. CONFIDENTIALITY OF INFORMATION

All information as to personal facts and circumstances of the infants, toddlers and their families shall be treated as confidential. The recommended policies governing confidentiality of information are designed to ensure that parents may place limits on the disclosure of personal information about themselves, their child and their family.

The use or disclosure of any information concerning infants and toddlers and their families shall be limited to purposes directly connected with the administration of the agency's programs or provision of services and supports in accordance with the procedures outlined in the procedural safeguard section of the Colorado Part H plan.

XI. TRANSITION

As required by Part H, the Individualized Family Service Plan must address the issue of transition from the early intervention service and support delivery system to preschool programs. It is anticipated that there will be children who receive services and supports under Part H who will not be eligible for special education preschool services. Whether or not a child is eligible for continuing services under special education, the transition should be anticipated and planned for in the Individualized Family Service Plan based on the guidelines described in the Colorado Part H plan.

The agencies shall plan together in order to avoid duplication of evaluations and to facilitate transition from Part H to Part B special education preschool programs or other appropriate services and supports to meet the requirements of the Individualized Family Service Plan.

XII. SUPERVISION AND MONITORING

The Colorado Department of Education as the lead agency is responsible for ensuring that programs and activities receiving assistance under Part H are administered, supervised, and monitored in accordance with Part H.

Since all Departments have compliance and monitoring systems already in place, Part H compliance issues will be addressed whenever possible through already operative systems. The Colorado Interagency Coordinating Council has developed and implemented a Community Infant Services Review process. This

is an interagency peer review process that provides information to local communities concerning their infant and toddler system of services and supports.

The Colorado Department of Education as the lead agency will provide technical assistance as requested to agencies, providers and organizations involved in delivering early intervention services and supports.

XIII. REVIEW OF THE AGREEMENT

This interagency agreement shall be reviewed and updated at any time by mutual agreement of the participating State departments. The review shall be for the purpose of developing new agreements, modifications, clarifications, or provisions deemed necessary. Revisions of an individual program addendum may be made without affecting the terms of the general agreement. This Memorandum of Understanding will become effective after signatures are affixed by the Executive Directors or Commissioner of the State departments. Furthermore, this Memorandum of Understanding shall remain binding on all successors of the signatories to this agreement and the Departments they represent. Termination of this Memorandum of Understanding must be approved by the Governor.

Signatures:

William Raudae
Colorado Department of Education

1-14-92
Date

Patricia G. Nolan MD, MPH
Colorado Department of Health

3/11/92
Date

Barbara McDonnell
Colorado Department of Institutions

2-7-92
Date

[Signature]
Colorado Department of Social Services

2-17-92
Date