

MEMORANDUM OF UNDERSTANDING
between the
**CABINET FOR HEALTH AND FAMILY SERVICES,
DEPARTMENT FOR PUBLIC HEALTH,
DIVISION OF MATERNAL AND CHILD HEALTH**
and
**KENTUCKY DEPARTMENT OF EDUCATION,
OFFICE OF SPECIAL EDUCATION AND EARLY LEARNING**

THIS AGREEMENT, made and entered into on November 3, 2023, establishes policies and agreements between the Cabinet for Health and Family Services, Department for Public Health, Division of Maternal and Child Health and Kentucky Department of Education. The purpose of this agreement is to ensure a smooth transition for toddlers with disabilities under the age of three and their families who are receiving early intervention services under Part C of the Individuals with Disabilities Education Act as provided through the Kentucky Early Intervention System (KEIS) to preschool services offered by Local Educational Agencies (LEAs) for children with disabilities beginning at age three as required by 34 CFR 303.209 (a)(3)(i)(A).

WHEREAS, the Department for Public Health is the Part C state lead agency,

WHEREAS, the Kentucky Department of Education is the State Educational Agency (SEA) responsible for Part B of the Individuals with Disabilities Education Act.

Acronyms used in this agreement:

Cabinet for Health and Family Services, Department for Public Health, Division of Maternal and Child Health (Cabinet)
KEIS—Kentucky Early Intervention System
KDE--Kentucky Department of Education
DPH—Department for Public Health
SEA—State Educational Agency
LEA—Local Educational Agency
IFSP—Individualized Family Service Plan
IEP—Individualized Education Program

Now, therefore, it is hereby and herewith mutually agreed by and between the parties hereto as follows:

The DPH/KEIS shall:

- 1) Define a child potentially eligible for Part B preschool services as a child, at least two years, three months old or older who is enrolled in KEIS and receives early intervention services through an IFSP.
- 2) Annually inform the KEIS of the following regulatory requirements:

- To convene an IFSP transition conference for children who may be potentially eligible for Part B services;
 - To invite the LEA representative to the IFSP transition conference with consent from the parent and
 - To discuss any services the toddler will receive under Part B.
- 3) Notify the SEA and LEA of children with an IFSP potentially eligible for Part B of the Individuals with Disabilities Education Act preschool services no fewer than 90 days and no more than nine months before the third birthday (child age range of 27 months of age to 33 months of age).
- 4) Provide the parent written notice of the option to disallow the release of personally identifiable information to the SEA and LEA (Opt-out policy; 902 KAR 30:110 (Section 1) (6)). This notice shall include identification of the information to be disclosed, the length of time a parent has to notify the service coordinator that the parent is opting out, what will happen if the parent does not choose to opt out, and that the parent's decision must be in writing.
- 5) Notify the SEA and LEA as soon as possible of all toddlers referred and determined eligible for Part C (KEIS) services more than 45 days but less than 90 days before the third birthday that the child is potentially eligible for Part B special education and related services unless the parent enacts the opt-out policy (see number 4).
- 6) With parental consent, refer to the SEA and LEA toddlers referred to Part C (KEIS) fewer than 45 days before the third birthday.
- 7) Provide, through the KEIS data system, a quarterly report to the KDE that includes contact information (including child's name, date of birth, parent/guardian name, address and phone number, and service coordinator name) for all KEIS enrolled children between the ages of 27 and 36 months whose parents have not opted out of the transition notification to the SEA and LEA.
- 8) Convene an IFSP meeting designated as the transition conference with the LEA and parent to discuss any services the toddler will receive under Part B, not fewer than 90 days and not more than nine months before a child's third birthday and with consent from the parent.
- The IFSP transition conference must be held at a time and location convenient to the parent(s).
 - The following individuals must be invited to attend:
 - LEA representative;

- Parent(s);
 - Other family members if requested by parent;
 - Advocate or other person outside of the family if requested by parent;
 - Service Coordinator for the child;
 - Individual who was involved in the assessment of the child (Primary Service Provider/Coach) and
 - Other service providers as appropriate.
- 9) Discuss at this transition conference (IFSP meeting) a review of program options from the child's third birthday through the remainder of the school year.
- 10) Provide parents at the conference with information about Part B preschool services including:
- A description of the Part B eligibility definitions;
 - State timelines and processes for consenting to an evaluation and conducting eligibility determinations under Part B; and,
 - Availability of special education and related services.
- 11) With parental consent, provide the LEA with copies of the most recent IFSP, progress reports, and assessments for their review and use in eligibility determination for Part B services.
- 12) Develop a transition plan at the transition conference (IFSP meeting) with the parent that includes steps for the toddler with a disability to exit from the Part C program, including discussions with and training of parents, as appropriate, regarding any transition services that the IFSP team identifies as needed by that toddler and their parent.
- 13) The transition plan must be established not fewer than 90 days and may be established up to 9 months before the child's third birthday.
- 14) Include the following transition steps in the transition plan: 1) confirmation that the child find information has been transmitted to the LEA (transition notification); and 2) with parent consent, confirmation that the most recent evaluation, assessment, and IFSP have been sent to the LEA.

KDE shall:

- 1) Match each child referred by KEIS to a specific school district (based on zip code). KDE will provide a data file with the child's name, parent contact information, and KEIS identifier to LEAs.

- 2) Notify each district of a child in KEIS who is potentially eligible for Part B services through the list described in number 1. This will fulfill the federal requirements of 20 U.S.C. 1437 (a)(-9)(A)(ii)(I) that the Part B service provider be notified of children who may be eligible for preschool services.
- 3) Send documentation of the date the notification was sent to each district within five days of dissemination.
- 4) Ensure LEAs will complete the following for a child who has been served in Part C and referred to Part B **more** than 90 days before the child's third birthday:
 - Conduct an initial evaluation under Part B within 60 school days of receipt of parental consent or State-established timeline or sooner if needed to ensure that IEP is developed and implemented by age three;
 - Invite a representative of the Part C program to the initial transition ARC meeting if the parent requests;
 - Within the 60 school-day timeline, hold a meeting to develop an IEP within 30 days of a determination that the child needs special education and related services and consider the child's previous IFSP that was used by the early intervention program when developing the IEP for the child; and
 - Develop and implement the IEP by the child's third birthday with written parental consent.
- 5) Ensure LEAs will complete the following for a child who has been served in Part C and referred to Part B **less** than 90 days before the child's third birthday:
 - Conduct an initial evaluation under Part B within 60 school days of receiving parental consent for the evaluation or sooner if the evaluation timeline expires after the child's third birthday.
 - Invite a representative of the Part C program to the initial transition ARC meeting if the parent requests;
 - Within the 60 school-day timeline, hold a meeting to develop an IEP within 30 days of a determination that the child needs special education and related services and consider the child's previous IFSP that was used by the early intervention program when developing the IEP for the child; and
 - Develop and implement the IEP by the child's third birthday with written parental consent.

- 6) Annually inform the LEAs of the following regulatory requirements:
 - To participate, with parental consent, in the transition conference for children who may be potentially eligible for Part B preschool services;
 - To invite the service coordinator or other Part C representative to the initial IEP meeting with the approval of the parent; and,
 - To consider the child’s IFSP, including the early intervention services and natural environments statement, when developing the IEP.

Terms of the Agreement


- A. This agreement shall be in effect from November 1, 2023, through June 30, 2026, and may be modified by mutual consent of both parties.
- B. The Cabinet shall have the right to terminate this agreement at any time upon thirty days' written notice served on the KDE by registered or certified mail outlining the reasons for termination.
- C. The KDE has the right to terminate said agreement upon thirty days' written notice served on the Cabinet by registered or certified mail outlining the reasons for termination.
- D. Both parties agree to abide by the rules and regulations regarding the confidentiality of any personally identifiable information as mandated by the Individuals with Disabilities Education Act (IDEA) and the Family Educational Rights and Privacy Act (FERPA).

APPROVED:

<p>3/12/2024 8:52 AM EDT</p> <p><small>DocuSigned by:</small> <i>Tricia Okeson</i></p> <p><small>DFE72ED667494EF...</small></p>	<p>3/12/2024 8:02 AM EDT</p> <p><small>DocuSigned by:</small> <i>Robin Kinney</i></p> <p><small>0D8287500B3243D...</small></p>
<p>Date Tricia Okeson Deputy Commissioner Kentucky Department for Public Health</p>	<p>Date Robin Fields Kinney Interim Commissioner of Education Kentucky Department of Education</p>

<p>12/27/2023 11:11 AM EST</p> <p><small>DocuSigned by:</small> <i>Henrietta Bada</i></p> <p><small>F697F3D0E564405...</small></p>	<p>1/5/2024 2:45 PM EST</p> <p><small>DocuSigned by:</small> <i>David Wickersham</i></p> <p><small>94DE57FE6BEA49D...</small></p>
<p>Date Henrietta Bada, MD Director Maternal and Child Health</p>	<p>Date Gretta Hylton Associate Commissioner Office of Special Education and Early Learning</p>

EXAMINED AS TO FORM AND LEGALITY:

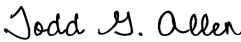
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Cabinet for Health and Family Services

12/15/2023 | 7:46 AM EST

Date

Attorney

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Office of Legal Services
Kentucky Department of Education

12/27/2023 | 9:32 AM EST

Date

Attorney