

## Oklahoma Early Intervention Act

§70-13-121. Short title.

Sections 1 through 9 of this act shall be known and may be cited as the "Oklahoma Early Intervention Act".

§70-13-122. Purpose - Implementation.

A. It is the purpose of the Oklahoma Early Intervention Act to establish the policy of this state to provide for early intervention services to infants and toddlers with disabilities and their families in accordance with Part C, formerly Part H, of the Individuals with Disabilities Education Act (IDEA), as may be amended. These services are deemed to be necessary in order to:

1. Enhance the development of infants and toddlers with disabilities;
2. Reduce the educational costs to our society by minimizing the need for special education and related services after such children reach school age;
3. Minimize the likelihood of institutionalization of individuals with disabilities and maximize their potential for independent living in society; and
4. Enhance the capacity of families to meet the needs of their infants and toddlers with disabilities.

B. The implementation of this policy requires the development of a system of services to infants and toddlers with disabilities and their families which is:

1. Comprehensive, coordinated, multidisciplinary and interagency;
2. Delivered by the State Department of Education, Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services for infants and toddlers with disabilities and their families subject to the provisions of the Oklahoma Early Intervention Act; and
3. Intended to fulfill the requirements of Part C of the Individuals with Disabilities Education Act (IDEA), by providing early intervention services.

Added by Laws 1989, c. 102, § 2, operative July 1, 1989. Amended by Laws 1990, c. 51, § 136, emerg. eff. April 9, 1990; Laws 1993, c. 116, § 13, eff. July 1, 1993; Laws 2005, c. 89, § 1, eff. July 1, 2005.

§70-13-123. Children eligible - "Developmentally delayed" defined.

A. The children eligible for entry into early intervention services in the State of Oklahoma shall be infants and toddlers age birth through two years (0-36 months) who are developmentally delayed. As used in this act "developmentally delayed" means children of the chronological age group specified in this section who:

1. Exhibit a delay in their developmental age compared to their chronological age of fifty percent (50%) or score two standard deviations below the mean in one of the following areas or in a subdomain of one of the following areas: cognitive, physical, communication, social and emotional, or adaptive development;
2. Exhibit a delay in their developmental age compared to their chronological age of twenty-five percent (25%) or score one and one-half standard deviations below the mean in two or more of the following areas or in a subdomain of two or more of the

following areas: cognitive, physical, communication, social and emotional, or adaptive development; or

3. Have a diagnosed physical or mental condition that has a high probability of resulting in delay. This includes, but is not limited to: chromosomal disorders, neurological abnormalities, inborn errors of metabolism, genetic disorders, congenital malformation of the brain, congenital infections and sensory abnormalities and impairments or identified syndromes.

B. The State Board of Education is authorized to modify and redefine by regulation the eligibility definitions established in subsection A of this section whenever such modification is required to receive federal assistance under Part C of the Individuals with Disabilities Education Act (IDEA), as may be amended.

Laws 1989, c. 102, § 3, operative July 1, 1989; Laws 2005, c. 89, § 2, eff. July 1, 2005.

§70-13-123.1. Consent to delivery of services - Parents or surrogate parents.

Parents or surrogate parents may consent to the delivery of services for the early intervention program for their eligible children.

For purposes of the Oklahoma Early Intervention Act the terms "parent" and "surrogate parent" shall have the meaning that said terms have in Title 34, Code of Federal Regulations, Part 300, Sections 10 and 514 which implement the Individuals with Disabilities Education Act (IDEA).

Added by Laws 1991, c. 317, § 2, emerg. eff. June 12, 1991.

§70-13-124. General administration, supervision and monitoring of programs and activities receiving federal and state funds - Continuation of certain existing services - Coordination of financial resources - Restricted use of monies.

A. The State Department of Education is hereby designated as the lead agency for general administration, supervision and monitoring of programs and activities receiving federal funds under Part H of the Individuals with Disabilities Education Act (IDEA) and state funds appropriated for early intervention services. To ensure compliance with Part H of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the State Department of Education is authorized to monitor and enforce any obligations imposed on agencies participating under Part H of the IDEA.

B. In accordance with Part H of the Individuals with Disabilities Education Act (IDEA), the Oklahoma Commission on Children and Youth shall administer the Interagency Coordinating Council for Early Childhood Intervention which shall advise and assist the lead agency in fulfillment of its responsibilities.

C. The State Department of Education, the State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services shall continue to provide all services within their respective statutory and constitutional responsibilities to the eligible population except as otherwise provided in Section 13-101 of this title. State and local interagency agreements will delineate responsibility for local and regional procedural safeguards, provision of service and related issues. Funds provided for implementation of the Oklahoma Early Intervention Act, Sections 13-121 through 13-129 of this title, shall not be used to satisfy a financial commitment for services which would have been paid for or provided by another public or private source, but shall be utilized solely for the enactment of Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act. Such funds may be used whenever considered necessary to prevent delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion. Funds provided for implementation of the Oklahoma Early Intervention Act may be used to pay the provider of services pending reimbursement from the agency which has the ultimate responsibility.

D. Pursuant to the requirements of Part H of the Individuals with Disabilities Education Act (IDEA), all financial resources from federal, state, local and private sources shall be coordinated to fund early intervention services. In order to determine the most effective utilization and achieve coordination, a joint funding plan shall be submitted to the Governor, the Speaker of the House of Representatives, and the Senate President Pro Tempore by the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services on or before October 1. The individual components of such plan as they relate to individual agencies shall be incorporated annually into each affected agency's budget request in accordance with the provisions of Section 41.29 of Title 62 of the Oklahoma Statutes. Such plan shall include, but not be limited to:

1. Utilization of State Aid funds appropriated to the State Board of Education for the purpose of providing early intervention services or provided pursuant to the State Aid Formula for special education services and related services to children with disabilities;

2. Publicly funded personnel and programs in the State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services who are currently serving the eligible population;

3. Feasibility of utilization of federal Title V funds;

4. Utilization of new state funds as may be appropriated by the Legislature for fiscal year 1990 for the purpose of early intervention, and of additional new funds needed to fully implement early intervention services in accordance with the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA);

5. Amendments to expansion of the Medicaid State Plan to include early intervention services for eligible children utilizing state funds designated for early intervention for the purpose of matching federal funds;

6. Feasibility of application for federal funds appropriated pursuant to P.L. 89-313; and

7. Utilization of funds received under Part H of the Individuals with Disabilities Education Act (IDEA).

E. The State Department of Education, the State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall be authorized to transfer funds enumerated in subsection D of this section to the Oklahoma Early Intervention Revolving Fund created in Section 13-124.1 of this title to the extent that transfers of such funds are authorized by and directed to the fund by the joint funding plan of the Oklahoma Early Intervention Act or by state or federal law.

F. Monies appropriated to an affected agency and monies identified in the joint funding plan for the purpose of providing early intervention services shall be used by the agency exclusively for the purpose of providing early intervention services.

G. For purposes of implementing the provisions of the Oklahoma Early Intervention Act, the board of education of any school district in this state may execute an agreement with a city/county health department or county health department to share appropriate facilities.

Added by Laws 1989, c. 102, § 4, operative July 1, 1989. Amended by Laws 1990, c. 51, § 137, emerg. eff. April 9, 1990; Laws 1990, c. 263, § 75, operative July 1, 1990; Laws 1991, c. 317, § 3, emerg. eff. June 12, 1991; Laws 1992, c.

373, § 18, eff. July 1, 1992; Laws 1993, c. 116, § 14, eff. July 1, 1993; Laws 1995, c. 137, § 4, eff. July 1, 1995.

NOTE: Laws 1991, c. 280, § 68 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992.

§70-13-124.1. Oklahoma Early Intervention Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Oklahoma Early Intervention Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of those monies appropriated to the fund by law or deposited in the fund pursuant to direction or authorization by the joint funding plan required in Section 13-124 of this title. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of providing early intervention services to children with disabilities in accordance with Part H of the Individuals with Disabilities Education Act (IDEA) and the Oklahoma Early Intervention Act.

Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

Added by Laws 1990, c. 263, § 74, operative July 1, 1990. Amended by Laws 1993, c. 116, § 15, eff. July 1, 1993.

§70-13-125. Contract between State Department of Education and State Department of Health specifying provision or arrangement of early intervention services.

A contract shall be entered into between the State Department of Education and the Oklahoma State Department of Health specifying the provision or arrangement of early intervention services by the Oklahoma State Department of Health. Such contract shall include, but not be limited to:

1. A delineation of individual and shared responsibilities for planning, administration and funding, multi-disciplinary evaluations, development of an individual family service plan, service delivery, procedural safeguards and liability of both agencies;

2. Specification of the numbers and types of personnel to be provided under the contract;

3. Provisions to be made by the Oklahoma State Department of Health for provision of services not available at a local level and authorization to subcontract with other public or private service providers; and

4. Specification of all management and indirect costs associated with the Oklahoma State Department of Health's provision of early intervention services that are authorized for payment under the contract. Allowable management costs shall be limited to itemized early intervention specific travel, dedicated or shared personnel and maintenance and operations costs. Indirect costs shall not exceed those authorized by the

indirect cost formula approved by the State Department of Education for the contract period. All other administrative, management or infrastructure cost recover methodologies shall be specifically disallowed for payment under the contract. Added by Laws 1989, c. 102, § 5, operative July 1, 1989. Amended by Laws 1999, c. 246, § 26, eff. July 1, 1999.

§70-13-126. Procedural safeguards.

Procedural safeguards shall be established in fulfillment of the requirements of Part H of the Individuals with Disabilities Education Act (IDEA) through interagency agreements involving the State Department of Education, the Oklahoma State Department of Health, the Department of Human Services, the Department of Mental Health and Substance Abuse Services and other publicly funded services as appropriate.

Added by Laws 1989, c. 102, § 6, operative July 1, 1989. Amended by Laws 1990, c. 51, § 138, emerg. eff. April 9, 1990; Laws 1993, c. 116, § 16, eff. July 1, 1993.

§70-13-127. Timely payments and reimbursements.

The legal requirements for timely payment and reimbursement for services under contract pursuant to Sections 41.4a through 41.4d of Title 62 of the Oklahoma Statutes shall govern the services, programs and activities for the State of Oklahoma's implementation of Part H of the Individuals with Disabilities Education Act (IDEA).

Added by Laws 1989, c. 102, § 7, operative July 1, 1989. Amended by Laws 1993, c. 116, § 17, eff. July 1, 1993.

§70-13-128. Data collection and reporting.

The data collection requirements concerning children with disabilities which are currently utilized by the State Department of Education upon the effective date of this act shall also be utilized to meet the data collection and reporting requirements for the State of Oklahoma under Part H of the Individuals with Disabilities Education Act (IDEA). Further, the Oklahoma State Department of Health, the Department of Human Services and the Department of Mental Health and Substance Abuse Services shall fulfill the data collection and reporting requirements established by the United States Department of Education pursuant to Part H of the Individuals with Disabilities Education Act (IDEA) for early intervention services provided by their respective agencies pursuant to the purposes of the Oklahoma Early Intervention Act, Section 13-121 et seq. of this title. The lead agency shall provide technical assistance to the agencies in this endeavor.

Added by Laws 1989, c. 102, § 8, operative July 1, 1989.  
Amended by Laws 1990, c. 51, § 139, emerg. eff. April 9,  
1990; Laws 1993, c. 116, § 18, eff. July 1, 1993.

§70-13-129. Revision of Oklahoma State Plan for Special Education - Effective date of services.

A. The Interagency Coordinating Council for Early Childhood Intervention shall assist the State Department of Education in revising the Oklahoma State Plan for Special Education to include areas addressing requirements under Part H of the Individuals with Disabilities Education Act (IDEA) necessary for full implementation of this act. Such revision shall be completed by April 1, 1990.

B. Contingent upon the enactment of legislation authorizing implementation of an annual budget submitted which is based upon a joint funding plan provided in subsection D of Section 13-124 of this title, services in compliance with this act and Part H of the Individuals with Disabilities Education Act (IDEA) shall be in effect no later than July 1, 1990. Subject to such contingency all children eligible for services pursuant to the provisions of Section 13-123 of this title shall be served beginning July 1, 1991.

Added by Laws 1989, c. 102, § 9, operative July 1, 1989.  
Amended by Laws 1993, c. 116, § 19, eff. July 1, 1993.