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TEIS POLICY MEMORANDUM #06-002

TO: TEIS Project Coordinators, TEIS Principal Investigators and
TEIS Contract Coordinators

FROM: Jamie Thomas Kilpatrick, Director
Office of Early Childhood Programs, Division of Special Education

RE: **Eligibility Determination**

DATE: November 27, 2006

The Tennessee Division of Special Education's Office of Early Childhood has been reviewing Part C practices, working with the Office of Special Education Program's (OSEP). Division personnel are currently conducting an extensive review of State and Federal IDEA Part C Regulations and eligibility determination procedures. Based on the evaluation of these regulations, practices and written OSEP clarifications, several inconsistencies have been noted. In an attempt to be proactive about these inconsistencies, it is necessary to provide written documentation for policy and procedural clarification related to eligibility determination. The Tennessee Division of Special Education's Office of Early Childhood is committed to full compliance with the Individuals with Disabilities Education Act (IDEA) Regulations as well as implementing timely eligibility determinations. Consultation with OSEP referred Tennessee to the Policy Letter dated October 24, 2003, *Letter to Goodman*.

I. Initial evaluation for eligibility

If the child has been evaluated by a doctor, nurse practitioner, or pediatric nurse*, as evidenced by a review of pertinent records related to the child's current health status and medical history, it is allowable to have one additional evaluator from another discipline assess the child's level of functioning in each of the following developmental areas: (A) cognitive development; (B) physical development, including vision and hearing; (C) communication development; (D) social or emotional development; and (E) adaptive development. This eligibility determination practice meets the definition of multidisciplinary evaluation. Part C does not require that, in conducting a "comprehensive, multidisciplinary evaluation of each child", each child be evaluated by more than one evaluator in any particular development area. Specifically "*multidisciplinary* means the involvement of two or more disciplines or professions in the provision of integrated and coordinated services, including evaluation and assessment activities in §303.322...." 34 CFR §303.17.

*Reference State of Tennessee Rules of State Board of Education Rule 0520-1-10-.02(9) (b) 2. (vi) for IDEA defined disciplines.

Under Part C regulations at 34 CFR §303.322(a)(1), the State "system must include the performance of a timely, comprehensive, multidisciplinary evaluation of each child, birth through age two, referred for evaluation...." The Part C regulations require that the evaluation and assessment be conducted by personnel trained to utilize appropriate methods and procedures. 34 CFR §§303.323(c) and 303.323(d). The regulations also specify that no single procedure is used as the sole criterion for determining eligibility. 34 CFR §303.322. The evaluation and assessment of each infant or toddler must be based on informed clinical opinion, and include the following:

- (i) a review of pertinent records related to the child's current health status and medical history;
- (ii) an evaluation of the child's level of functioning in each of the following developmental areas: (A) cognitive development; (B) physical development, including vision and hearing; (C) communication development; (D) social or emotional development; and (E) adaptive development;
- (iii) an assessment of the unique needs of the child in terms of each of the developmental areas in paragraph (c) (3) (ii) of this section, including the identification of services appropriate to meet those needs for determining a child's eligibility.

34 CFR §303.322(c)

Therefore, **effective immediately upon receipt of this memorandum**, Point of Entry eligibility determination practices should adhere to the following procedures:

The multidisciplinary team for every child will include:

- A developmental evaluator, which:
 - i. Meets the Tennessee Professional Standards for Early Childhood Education and/or Early Childhood Special Education; or
 - ii. Have verification of formal training and experience in the field of early childhood development and/or early intervention; and
 - iii. Have experience in conducting developmental evaluations of young children.
- A medical professional, which must include one of the following:
 - i. Physician;
 - ii. Nurse practitioner; or
 - iii. Pediatric nurse.

It is not consistent with IDEA to require additional evaluative measures for an individual child in order to determine eligibility for Part C. Any additional concerns in a specialty area (i.e. speech, hearing, physical therapy, occupational therapy) would only be addressed at the initial IFSP meeting or subsequent IFSP meetings. Requiring additional evaluative measures to determine eligibility places an undue burden on families and is a barrier to the implementation of the initial IFSP. **Part C funds may not be utilized to pay for these specialties evaluative measures prior to the initial IFSP.**

The Office of Early Childhood is committed to working with all parties involved with the implementation of these procedures. Non compliance with this policy and practice clarification will result in potential termination of contract for cause. Department of Education procedures will be immediately be put in to place to ensure compliance with this policy and practice clarification.