May 15, 2024

Office of Child Development and Early Learning
Bureau of Early Intervention Services and Family Supports
ATTN: Public Comments for Part C Grant Application
333 Market Street, 6th Floor
Harrisburg, PA 17101

RE: ***Public Comments to PA's Draft Part C Application for the Infant and Toddler Early Intervention Program***

Dear Bureau Staff:

Thank you for the opportunity to comment on Pennsylvania's draft Federal Individuals with Disabilities Education Act (IDEA) Part C Application for the Infant and Toddler Early Intervention Program. As principal partners in Early Learning Pennsylvania's Part C Early Intervention Workgroup ("Part C EI Workgroup"), we represent children and families, early intervention providers, early care and education providers, and children's medical providers. Our comments focus on the Bureau of Early Intervention Services and Family Support Programs' (BEISFS) equity submission in accordance with Section 427 of the General Education Provisions Act (GEPA).

As with last year, we are particularly concerned with the following statement from BEISFS in its draft submission: "Pennsylvania's Part C EI program has not identified systemic barriers that have impeded equitable access and participation of infants, toddlers, and their families in the Part C EI program." This statement is inconsistent with the data—both quantitative and qualitative—regarding access to Part C EI in the Commonwealth. Further, it fails to acknowledge difficulties families face accessing and participating in Part C EI services. In addition, the BEISFS has failed to identify barriers that impede equitable access and participation of "educators and other beneficiaries" in addition to students, as required by the GEPA.

Without acknowledging *any* systemic barriers to equitable access and participation, the BEISFS cannot seek to make lasting change to ensure that all eligible young children have access to the essential and potentially transformative Part C EI services to which they are entitled. We recommend replacing that sentence with the following: "Pennsylvania's Part C EI program has identified and is working to address systemic barriers that are impeding equitable access and participation of infants, toddlers, their families, and educators in the Part C EI program. As a result, BEISFS continues to engage in ongoing quality improvement activities in all aspects of the EI system, including data collection and analysis, stakeholder surveys, and a provider rate study."

1. The Root Causes of Trends in Existing Data Must Be Analyzed to Determine Systemic Barriers

Quantitative data available to leaders within the Part C EI program indicates that there are systemic barriers to children's equitable access. The BEISFS' statement that it "has not identified systemic barriers that have impeded equitable access…" reflects a lack of engagement with the data available to program leaders. Through a data request to the BEISFS, the Part C EI Workgroup obtained extensive data that documents concerning trends regarding which young children in Pennsylvania are, and more importantly *are not*, accessing and participating in Part C EI. These trends likely result due to systemic barriers that are impacting equity in the implementation of Part C EI.

The following are trends that the Part C EI Workgroup has identified after an initial review of the BEISFS data that indicate systemic barriers to equitable access and participation:

- Pennsylvania's most underserved children, including children in child welfare and children experiencing homelessness, are significantly less likely to be evaluated after being referred for Part C EI when compared with their peers. Although less than 15% of young children referred for evaluation through Part C EI are coded as "no evaluation," 48% of the referrals in FY21-22 and 61% of the referrals in FY22-23 from homeless shelters resulted in no evaluation. Similarly, 33% of the referrals in FY21-22 and 32% of the referrals in FY22-23 from child welfare agencies (County Children & Youth Services) resulted in no evaluation.
- Across counties, there is wide discrepancy in data regarding rates of eligibility, ineligibility, and tracking. For example, while 63% of young children referred for Early Intervention in Pennsylvania were found eligible for Part C EI, individual county rates of eligibility vary from, for example, 37% of children in Huntingdon/Mifflin/Juniata counties to 84% of children in Bedford/Somerset counties. While 6% of children in Pennsylvania were referred for ongoing tracking, individual county rates varied from less than 0.5% in Bedford/Somerset counties to 14% in Clearfield/Jefferson counties.
- Across multiple years, boys are enrolled in Part C EI at a rate of 2:1 versus girls.[1]

In addition to the current existence of data that documents trends that likely result from systemic barriers, the BEISFS also lacks critical data to identify systemic barriers in equitable access and participation, which must be corrected during the current data collection

[1] Notably, this data trend may reflect the troubling over-identification of Black boys in special education due to racial bias, which has been recognized as a national concern, *see, e.g.,* U.S. Dept. of Educ., *Dear Colleague: Preventing Racial Discrimination in Special Education* (2016) at https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-racedisc-special-education.pdf, or the under-identification of girls. Either basis would be cause for necessary intervention and must be understood in order to be addressed.

restructuring process. The data received by the Part C EI Workgroup reflects gaps in what type of information is being collected. Without the necessary data, for example regarding the race/ethnicity of children who are referred but not evaluated for Part C EI, the BEISFS cannot identify systemic barriers that may be severely impacting the ability of the program to equitably serve young children who would otherwise be eligible for Part C EI. We are aware that the BEISFS is in the process of transitioning to a new platform for data collection and we urge it to develop functionality to collect data necessary for identifying systemic barriers, such as:

- Disaggregated data on demographics (e.g.- race/ethnicity, gender, household language, household income and size to identify poverty levels) of young children at multiple points of access and participation in Part C EI including referral, evaluation, eligibility, and tracking;
- Eligibility and enrollment in Medical Assistance (MA);
- Movement from the tracking system to ineligibility and enrollment;
- Expanded definitions of developmental delay and concern; and
- Delays in service implementation by reason.

2. Stakeholders Have Identified Systemic Barriers to Equitable Access

Consistent with the trends identified in the existing data, stakeholders, including families, early care and education providers, EI providers, and medical providers, have identified systemic barriers to children's equitable access within the Part C EI program. A recent position paper from the Early Intervention Steering Committee of the Rehabilitation & Community Providers Association (RCPA) described results from a survey of Part C EI providers regarding various systemic barriers to equitable access and participation in the program.[2] A key concern raised in the report, which is reflected in the data described above, relates to inconsistencies in eligibility criteria between counties:

> "Over time, counties have imposed restrictions on the use of the pathways to service, creating a hierarchy of the eligibility criteria. As such, some counties have minimized and/or eliminated the use of one or more eligibility pathways. This is inconsistent with the current state code (Title 55, Chapter 4226), and is in direct opposition to the spirit and intention of Act 212, which was to increase access opportunities for children and families. The practices adopted by individual counties to discourage use of

[2] RCPA Early Intervention Steering Committee Position Paper: Early Intervention Eligibility in Pennsylvania, March 2024, at https://paproviders.org/wp-content/uploads/2024/03/Early-Intervention-Eligibility-in-Pennsylvania_RCPA-Early-Intervention-W.pdf.

or eliminate any of these eligibility criteria during the evaluation process limits access to crucial services for vulnerable and at-risk children."[3]

The report describes these restrictions in greater detail, highlighting the barriers that this creates to equitable access and participation of young children who could otherwise be eligible for Part C EI. For example, most counties have eliminated determining eligibility based on assessments revealing that a child experiences a developmental delay of 25% or more. In addition, many counties eliminate the use of Informed Clinical Opinion as a basis for eligibility or impose restrictions on its use that have a chilling effect for evaluators. Finally, some counties use limiting lists of medical conditions that warrant eligibility for Part C EI, which are not aligned to all of the conditions that may lead to developmental delays. The example provided of the county that does not permit eligibility based on a diagnosis of Torticollis is particularly striking given the evidence supporting the efficacy of timely treatment to prevent long-term impact.[4]

The BEISFS has been provided with this report regarding these systemic barriers, as well as a recent report documenting stakeholder feedback from a one-year assessment of the Part C EI, which identified the following issues[5]:

- Gaps in EI processes (outreach, referral, evaluation, service delivery) result in a lack of referral, participation in assessments, and enrollment of children of color, children experiencing homelessness, and children from immigrant and refugee families;
- Lack of language access during stages of outreach, referral, enrollment and provision of EI services for families who communicate in a language other than English, and differences between county use of interpretation/translation beyond the initial and annual individualized family service plan, which stalls the participation of their children and results in county by county discrepancies;
- Screening and evaluation of children whose mothers screen for maternal depression who are at greater risk of developmental delays, but are not referred for EI services;
- Evaluation of children who have substantiated cases of child abuse and neglect who have been identified through screening for referral to Part C, but have not been evaluated;
- No automatic referral for Part C EI services for children testing positive for lead poisoning;
- Inconsistency across counties in the use of eligibility criteria and the pathway between early childhood mental health services and Part C services;

[3] *Id.* at 2.

[4] EIPA, *The Importance of Starting Treatment Early for Torticollis and Plagiocephaly,* at https://www.eipa-pa.org/wp-content/uploads/2024/01/Torticollis-Position-Paper-3.2023.pdf.

[5] Pennsylvania Association for the Education of Young Children and Pennsylvania Partnerships for Children, with support from Harriet Dichter, Kay Johnson and Elisabeth Burak. *Statewide Advocacy Agenda to Improve Part C Early Intervention Services for Pennsylvania 2022* (2022), at https://online.flippingbook.com/view/939100225/.

- Lack of support for child care programs and coordination between EI and early care and education, contributing to the suspension and expulsion of children receiving EI services;
- Part C EI workforce is predominantly white and needs ongoing professional development regarding antibias and cultural responsiveness. This leads to equity barriers in referral, evaluation, and service delivery;
- Rates that do not reflect true costs of services and contractor/fee-for-service payment structures in Pennsylvania's Part C program perpetuate inequities; and
- Limited ability to monitor equitable program implementation and performance given the lack of publicly-available, county-level disaggregated data. The data tools currently available should be more frequently verified, updated, and made accessible for better analysis. In addition, there is a lack of data on unmet needs for targeted at-risk populations, such as children in child welfare and children experiencing homelessness, so there is no way to understand the full extent of the systemic barriers to access.

In light of the voluminous stakeholder feedback available to the BEISFS regarding reports of systemic barriers to equitable access and participation, the BEISFS' statement in its equity submission in accordance with the GEPA that it has not identified any systemic barriers is concerning. Furthermore, the barriers identified by stakeholders are consistent with trends that have been identified in regional and national studies.[6]

The BEISFS also includes quality improvement goals in the GEPA, which align with issues we identified through stakeholder discussions. However, despite offering areas which require needed improvement, BEISFS continues to state no barriers were identified to equitable access and participation in Part C EI. Quality improvement goals identified by BEISFS include increasing EI services provided by professionals who reflect the communities they serve and providing funds to support training of EI professionals related to equity, diversity and inclusion. BEISFS recognizes the need to collect additional data and provide more supports in these areas.

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[6] *See, e.g.,* Blanchard, Sheresa Boone et al., *Confronting Racism and Bias Within Early Intervention: The Responsibility of Systems and Individuals to Influence Change and Advance Equity,* Topics in Early Childhood Special Education (2021), at https://journals.sagepub.com/doi/10.1177/0271121421992470; McManus, Beth M. et al., *Child Characteristics and Early Intervention Referral and Receipt of Services: A Retrospective Cohort Study,* BMC Pediatrics (2020), at https://bmcpediatr.biomedcentral.com/articles/10.1186/s12887-020-1965-x; Barger, Brian et al., *State Variability in Diagnosed Conditions for IDEA Part C Eligibility,* Infants & Young Children (2019), athttps://journals.lww.com/iycjournal/Abstract/2019/10000/State_Variability_in_Diagnosed_Conditions_for_IDEA.2.aspx; Hackworth, Naomi J. et al., *What Influences Parental Engagement in Early Intervention? Parent, Program and Community Predictors of Enrollment, Retention and Involvement,* Prevention Science (2018), at https://link.springer.com/article/10.1007/s11121-018-0897-2.

3. The BEISFS Has Not Identified Systemic Barriers to Equitable Participation of Educators

Finally, the BEISFS fails to identify systemic barriers to the equitable participation of "educators and other beneficiaries" in the Part C EI program, as required by Section 427 of the GEPA.[7] BEISFS fails to acknowledge these other parties in its response related to barriers to equity, including the Part C EI workforce and other entities that collaborate with the EI system, such as child care professionals. For example, BEISFS is engaged in a rate study for Part C EI providers due, in part, to its recognition that the current rate structure is not adequately serving the program. Because the rates do not reflect the true costs of services, Part C EI programs are not able to recruit a diverse pool of EI professionals and potential or current Part C EI providers cannot financially sustain provision of services in the program. The BEISFS' statement in the GEPA fails to recognize this systemic barrier, which is inconsistent with the actions of the BEISFS.

In order for the application to accurately reflect the operational realities of the Part C program in the Pennsylvania, **the submission under Section 427 of the GEPA should be revised to reflect the systemic barriers to Part C EI access that are well-documented within the Commonwealth**. Our group has identified solutions to address these issues and welcomes the opportunity to work with the Office of Child Development and Early Learning to improve the Part C EI system for children and families. We look forward to working together to ensure a Part C EI system where each and every child and family can access and fully-participate in EI services which meet their needs.

Thank you for the opportunity to offer our feedback on the Part C application.

Sincerely,

Early Learning Pennsylvania's EI Part C Workgroup
Allies for Children
American Academy of Pediatrics – Pennsylvania Chapter
Center for Schools and Communities
Children First
Children's Hospital of Philadelphia, PolicyLab
Early Intervention Providers Association
Education Law Center - PA
Fight Crime: Invest in Kids
First Up
Mission Readiness

[7] 20 U.S.C. §1228a(b).

Pennsylvania Association for the Education of Young Children
Pennsylvania Association for Infant Mental Health
Pennsylvania Child Care Association
Pennsylvania Head Start Association
Pennsylvania Partnerships for Children
Rehabilitation and Community Providers Association
The Arc of Pennsylvania
Trying Together
United Way of Pennsylvania