Early Childhood Intervention (ECI)

System of General Supervision/Oversight

Designated as the IDEA, Part C lead agency, DARS assumes responsibility for the general administration and supervision of programs and activities administered by agencies, institutions, organizations, and early intervention service providers receiving assistance under Part C. DARS administers the IDEA, Part C program through subrecipient contracts with these various legal entities across the state. As such, federal funds to carry out the program are received by DARS and passed on to the contractor, and the contractor is given the responsibility for local programmatic decision-making. To ensure that the contractor is performing all duties in accordance with the contract and that the agency is aware of and addresses any developing problems or issues, DARS administers a multi-faceted, comprehensive system of general supervision and oversight.

**Local Program Management and Oversight Systems**

As a subrecipient, the contractor bears full responsibility for the integrity of the fiscal and programmatic management of its organization. The contractor is required to develop program management and oversight systems to fulfill these responsibilities. Such responsibilities include

* timely delivery of quality services to children and families;
* compliance with all contract requirements;
* compliance with required performance standards and measures;
* the effective and efficient use of resources to deliver services to children and families;
* accountability for all funds and materials received from DARS;
* compliance with all applicable DARS rules, policies, and procedures, and all state and federal laws, regulations, policies, and procedures during the contract period, as of the effective date; and
* correction of fiscal and program noncompliance identified through self-evaluation and DARS’ monitoring process.

**DARS ECI System of Oversight**

Texas has a comprehensive system of ongoing management and monitoring of contractor services in accordance with Part C requirements, ECI policy (programmatic and financial) and contract requirements. This system of supervision utilizes the following: policy guidance; review of data reported by local programs; in-house review of program funding applications and required reports; onsite review based on a risk assessment; technical assistance through onsite visits, completion of self-assessments, telephone and email communication; informal complaint resolution and formal complaint investigation. Various sections within ECI are tasked with the collection of data, dissemination of information, child find, the competency demonstration system, onsite visits and internal reviews. Technical assistance is also a critical component of the system to promote and maintain compliance and recommended practice. Coordination occurs to ensure that training focuses on identified areas of need.

DARS ECI administers a system of ongoing performance management and oversight of contractor services in accordance with Office of Special Education Programs (OSEP) requirements, DARS rules and contract requirements. DARS implements oversight procedures for all DARS ECI contractors. These procedures identify areas of noncompliance and ensure that necessary corrective actions are implemented.

DARS ECI monitors each contractor’s performance throughout the contract period for

* contract terms and conditions, including any amendments;
* program rules, policies, and procedures;
* other requested contractor reporting;
* identified areas of associated risk; and
* other issues that require special attention and monitoring as determined by DARS ECI.

DARS ECI may implement a variety of performance management activities, including onsite monitoring, desk review monitoring, data monitoring, funding application review, financial report monitoring, quality assurance reviews, technical assistance/training, complaint resolution, and other activities determined necessary.

The contractor must fully participate in the performance management process by

* timely submitting requested information,
* implementing corrective actions or system changes when requested,
* participating in onsite reviews, and
* participating in technical assistance and training activities.

As determined through the performance management process, if the contractor’s level of compliance or performance indicates a need, the program may be subject to remedial actions (40 TAC **§108.1611, Remedial Contract Actions).**

The contractor may be immediately recommended for contract termination or discontinuation of funding if there is evidence of

* violation of state or federal law,
* abuse or neglect of consumers,
* compromised consumer safety,
* fraud,
* fiscal or program mismanagement,
* intentional misrepresentation of material issues,
* any real or apparent conflict of interest,
* lack of cooperation with monitoring activities, or
* violation of the terms of the contract.

DARS ECI reports evidence of illegal acts to the HHSC Office of Inspector General (HHSC OIG) and determines whether to contact law enforcement.

DARS ECI issues findings to account for all identified noncompliance through onsite, desk and data monitoring. Findings of noncompliance are identified through representative samples using appropriate sampling methodologies.

**Onsite Monitoring**

There are three types of onsite visits:

* comprehensive onsite monitoring,
* follow-up to comprehensive onsite monitoring, and
* focused monitoring.

### Comprehensive Onsite Monitoring

Comprehensive onsite monitoring visits, which may be announced or unannounced, involves

* examination of service delivery documentation,
* examination of program and agency financial documentation,
* examination of any requested reports, and
* interviews with members of the contractor’s ECI program and financial staff.

After a comprehensive onsite monitoring visit, the ECI contractor receives an initial monitoring report that outlines preliminary findings. The contractor returns the initial monitoring report with proposed corrective actions that address each finding. If the contractor disagrees with any of the findings, the contractor must respond to DARS in writing within 20 business days of receipt. The contractor must indicate its disagreement with any finding and provide any required supporting documentation.

The contractor receives a final report that includes all findings, the contractor’s corrective actions, and notification by DARS that the corrective actions are approved.

### Onsite Follow-up to Comprehensive Monitoring

DARS ECI performs follow-up to comprehensive monitoring visits to ensure corrective actions approved in the final comprehensive monitoring report are implemented and result in improvements to the service delivery system. Follow-up to comprehensive monitoring may be announced or unannounced (and may occur onsite or by desk review). The follow-up review involves activities similar to the comprehensive monitoring, but focuses on areas where noncompliance was identified in the comprehensive monitoring.

After follow-up to a comprehensive monitoring visit, the ECI contractor receives a monitoring report that outlines the initial findings and results of the follow-up review. The report indicates whether the corrective action was successfully implemented and completion of the monitoring process, or additional corrective actions are required. If additional corrective actions are required, the contractor must return the monitoring report with additional proposed corrective actions. DARS ECI issues a final report, including information about the status of the monitoring visit, when additional plans of corrective action are received and approved.

### Focused Onsite Visits

The contractor must participate in focused reviews when requested by DARS. Focused visits may result in the need for corrective actions, required technical assistance or training to be provided by DARS ECI or provider management staff. Focused visits may be unannounced if DARS ECI receives information or allegations about possible serious performance or compliance issues about service delivery or program and fiscal management. DARS ECI prioritizes these visits based on the nature of the issue.

The contractor is expected to make available any requested service delivery documentation, program and agency financial documentation, and reports. Focused visits may also include interviews with members of the contractor’s ECI program and financial staff.

## Desk Review Monitoring

DARS ECI performance and oversight staff members conduct ongoing desk reviews of program and financial data, consumer records, and other pertinent information as determined necessary to ensure appropriate contract performance and compliance, and to address reported complaints or concerns. As part of the desk review process, the contractor may be required to participate in conference calls and submit additional supporting documentation to ensure compliance with contract and policy requirements. Desk review activities may result in remedial actions, improvement plans, required technical assistance, or specified training by DARS ECI or provider management staff members.

Follow-up to comprehensive monitoring visits may be conducted by desk review, depending on the egregiousness and pervasiveness of the noncompliance identified.

**Data Monitoring**

DARS ECI examines data from TKIDS at least one time per year to determine noncompliance with the requirements for:

* Timely service initiation (i.e., within 28 days of development of the IFSP);
* 45-day timeline (i.e., an initial evaluation, initial assessment and an initial IFSP meeting conducted for eligible children); and
* Timely transition planning.

DARS ECI provides a list of the potentially noncompliant cases to each ECI contractor giving them the opportunity to review the data for accuracy and provide additional evidence that demonstrates compliance. Once the data is determined accurate, DARS ECI reviews the data again and identifies cases that are, in fact, noncompliant. DARS ECI issues findings based on the noncompliant cases.

*Correction of Individual Child Findings*

DARS ECI ensures correction of individual child findings within one year of the issuance of the finding by having the ECI contractor complete the required action unless the child is no longer in the jurisdiction of the ECI program.

*Correction of System Findings*

DARS ECI ensures correction of a system finding by pulling a reasonable subsequent sample of data. System findings are cleared when the data indicates zero noncompliant cases and must be cleared within one year of the issuance of the finding.

*Addressing Continued Noncompliance*

If an ECI contractor is unable to clear a child and/or system finding within one year of the issuance of the finding and demonstrates continued noncompliance with a lack of significant improvement, DARS ECI takes remedial additional action, up to and including contract termination. DARS ECI also adjusts the ECI contractor’s annual determination.

**Quality Assurance Reviews**

Quality assurance reviews involve clinical and analytical expertise by DARS ECI quality assurance therapists and quality assurance specialists, with their primary focus on eligibility determination, IFSP service planning and outcomes, the delivery of therapy services and specialized skills training, as well as ensuring quality and reliable outcomes data reporting. Quality assurance activities include:

* Conducting clinical assessments of ECI evaluations, service planning and service delivery through data and record reviews and observation to inform and assist in the development of rules, policies and other program requirements;
* Conducting focused assessments of child and family outcomes through data and record reviews to inform and assist in the development of rules, policies and other program requirements;
* Providing consultation, technical assistance and training to contractors, including developing technical assistance and training materials;
* Leading statewide initiatives to support and improve professional clinical and therapeutic practice throughout the ECI system;
* Assisting in the review of corrective action plans to ensure necessary corrections; and
* Contributing information and analysis of performance measurements, trends and issues to assist in identifying improvement strategies.

**Funding Application Reviews**

The funding application is part of the annual DARS ECI contract renewal process. The funding application is used to establish annual contract budgets for ECI contractors prior to the start of the new fiscal year. The application is based on a total program budget concept and requires the contractor to identify and budget all projected ECI program revenues and expenses for the new fiscal year. ECI contractors are awarded funds based on contract compliance and availability of funds.

Funding applications are reviewed by DARS ECI performance management and financial staff, with management oversight of the process.

The review includes an examination of current and historical data. Reviewers use their factual knowledge of contractors, including observations, monitoring visits, inquiries, or other analyses of contractor operations. The objectives of the funding application review are to ensure that:

* budgeted costs are allowable, allocable, reasonable and necessary, according to Uniform Grant Management Standards and applicable cost principles;
* the contractor has the ability to access the complete array of services required under Part C of IDEA.
* staffing levels are appropriate to meet service delivery requirements and meet the needs of the children and families served;
* the total of the funding sources that comprise the State and Local Funds Requirement are at the required level; and
* noncompliance issues, including outstanding monitoring findings, financial reporting discrepancies, and/or other exceptions, are evaluated prior to recommending renewal of the contract.

**Financial Report Monitoring**

ECI contractors are required to submit financial reports following the end of each quarter of the fiscal year. The contractor must

* maintain a self-balancing set of accounts for the program;
* prepare all claims for reimbursement and financial reports directly from this set of accounts;
* document all costs charged to the contract or reported as State and Local Funds, as well as in-kind contributions;
* reconcile costs with reimbursements and financial reports;
* maintain a separate accounting (cost center, account number, etc.) for early intervention services and respite services;
* maintain cost controls over program expenditures; and
* take action in a timely and appropriate manner to resolve budgetary overages.

DARS ECI staff reviews the quarterly financial reports and, for specific quarters, applies the following objectives:

* determine that the contractor is operating from the current budget;
* ensure that indirect charges do not exceed the approved rate;
* determine if the contractor’s rate of budget expenditure appears reasonable;
* evaluate the contractor’s billing performance to determine that it is collecting all revenue it is entitled to;
* ensure that all reported State and Local Fund collections are expended prior to the contractor using DARS funds; and
* ensure that inventory of equipment and controlled assets is reported correctly.

When the DARS ECI staff identifies noncompliance in the review, a formal written report documenting the findings and requiring corrective action is sent to the contractor. The report also alerts the contractor of red flag indicators related to its State and Local Funds collections and budget expenditure.

**Complaints Management**

ECI maintains activities to support the complaints management system, including: distribution of a parent handbook that outlines dispute resolution options and procedures, notice on the agency website regarding complaint procedures, a toll-free telephone line for families to talk with ECI state staff regarding questions or concerns, and onsite program monitoring visits which may include contact with families. Informal complaints are documented and tracked to identify systemic and program-specific issues. In all cases, ECI performance managers work with families and local providers to address the issue and resolve it informally. The effective use of informal complaint resolution is a contributing factor in the low number of formal complaints filed. Families are made aware of their right to file a formal complaint even if their concerns appear to have been resolved informally.

The timely resolution of complaints is an agency performance measure reported quarterly to the state legislature. Formal complaints are tracked in a complaints tracking log, to ensure complaints are addressed in a timely manner and assist the agency in identifying potential systemic issues.

**Complaints Resolution**

An individual or organization may file a complaint with DARS alleging that a requirement of the Individuals with Disabilities Education Act, Part C or applicable federal and state regulations has been violated. A complaint may be filed directly with DARS without having been filed with the contractor or local program. All complaints received by DARS concerning early childhood intervention services are forwarded to the DARS ECI Assistant Commissioner. After receipt of the complaint, the DARS ECI Assistant Commissioner assigns a staff person to conduct an individual investigation, onsite if necessary, to make a recommendation to the DARS ECI Assistant Commissioner for resolution of the complaint. The child's and family's confidentiality is protected during the complaint resolution process.

All relevant information is reviewed and an independent determination made as to whether a violation to the requirements of IDEA occurred. Complainants are informed in writing of the final decision of the DARS ECI Assistant Commissioner. The DARS ECI Assistant Commissioner's written decision to the complainant addresses each allegation in the complaint and contains:

* findings of fact and conclusions; and
* reasons for the final decision.

To ensure effective implementation of the DARS ECI Assistant Commissioner's final decision and to achieve compliance with any corrective actions, the DARS ECI Assistant Commissioner assigns a staff person to provide technical assistance and appropriate follow-up to the parties involved in the complaint as necessary.

In resolving a complaint in which there is a finding of failure to provide appropriate services, the DARS ECI Assistant Commissioner will remediate the denial of those services, including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family; and appropriate future provision of services for all infants and toddlers with disabilities and their families.

When a complaint is filed, the DARS ECI Assistant Commissioner offers mediation services as an alternative to proceeding with the complaint investigation. Mediation may be used when both parties agree. A parent's right to a due process hearing or complaint investigation is not denied or delayed because they chose to participate in mediation. The complaint investigation continues and is resolved within 60 days, even if mediation is used as the resolution process.

If a written complaint is received that is also the subject of a request for an administrative hearing concerning the requirements of FERPA, or contains multiple issues, of which one or more are part of those hearings, the part of the complaint that is being addressed in those hearings is set aside until the conclusion of the hearings. However, any issue in the complaint that is not a part of such action must be resolved within the 60 day timeline using the complaint procedures.

## Determinations

DARS ECI makes determinations annually about the performance of each ECI program in meeting the requirements of IDEA, Part C. DARS ECI analyzes the performance of each contractor based on a set of indicators established in the State Performance Plan. Each contractor’s performance is made public, including data obtained through the performance management process.

Considerations for local determination, as indicated by OSEP for local entities that implement Part C services, include:

* performance on compliance indicators;
* whether data submitted by local ECI contractors are valid, reliable and timely;
* timely correction of noncompliance;
* history, nature and length of time of any noncompliance or other performance issues;
* audit findings;
* performance on performance indicators; and
* other pertinent information.

DARS ECI reviews the contractor’s performance and assigns determinations as follows:

* meets the requirements and purposes of Part C;
* needs assistance in implementing the requirements of Part C;
* needs intervention in implementing the requirements of Part C; and
* needs substantial intervention in implementing the requirements of Part C.

The contractor receives written notice of its annual determination.

**Technical Assistance**

DARS ECI provides capacity-building, interactive programmatic and technical support to ECI contractors in the implementation and evaluation of their ECI programs. These activities are designed to offer broad solutions to system-wide issues, as well as program-specific challenges. Once the areas needing improvement are identified, DARS’ objective is to provide ECI contractors with useful information that they will be able to use to do something that will make a difference for their programs. The anticipated outcomes of technical assistance and training are concrete, attainable, and measurable changes that will occur as a result.

Based on evaluation of contractor performance across the state, and the performance of individual contractors’ ECI programs, through mechanisms such as monitoring, review of data reports, and contractor self-assessment, DARS ECI provides customized information, evaluation, performance management and monitoring.

The types of technical assistance offered by DARS ECI to its contractors include:

* Written resources and references
* Group (webinar-based) training, information and support
* One-to-one training, consultation and support

As a consequence for the contractor’s failure to meet contract output and outcome measures, DARS may require the contractor to receive technical assistance.