CHAPTER 36.

PRESCHOOL PROGRAMS FOR CHILDREN WITH DISABILITIES

SECTION 59-36-10. Definitions.

As used in this chapter:
(1) "Preschool disabilities program" means the special education and related services provided in accordance with Public Law 94-142, as amended;
(2) "Preschool children with disabilities" means children ages three, four, and five whose developmental progress is delayed to the extent that a program of special education is required to ensure their adequate preparation for school-age experiences. This includes four-year-old vision and hearing-impaired children and five-year-old children with disabilities previously included under Section 59-21-510. Eligibility must be noncategorical and must provide for children who are experiencing developmental delays in one or more of the following areas: cognitive ability, social ability, emotional ability, perceptual ability, visual ability, hearing ability, motor ability, speech-language ability, and other health impairments.
(3) "State advisory council" means the state advisory council on the Education of Children with Disabilities established in compliance with Public Law 94-142, as amended. The advisory council must be expanded to include permanent representation by state agencies listed in Section 59-36-20 that provide services for preschool children with disabilities, ages birth through five, and the Chairperson of the Interagency Coordinating Council (ICC) for P.L. 99-457. Additionally, a subcommittee of the advisory council must be established to address educational programs and services for preschool children with disabilities. The chairperson of the ICC and the advisory council, or their designee; state agencies designated from those listed in Section 59-36-20; at least two parents; one representative from daycare programs; one representative from HeadStart; and two local education agency representatives form the committee, all of whom, with the exception of the Chair of the ICC, shall be selected by a majority vote of the advisory council. A staff member from the Department of Education will be assigned to provide assistance to the council and the subcommittee as needed.

SECTION 59-36-20. Comprehensive system of special education and services; mandate of Individuals with Disabilities Education Act; agencies and persons responsible; inter-agency cooperation; level of services; costs of services; resolving disagreements.

The State Board of Education and the State Department of Education are responsible for establishing a comprehensive system of special education and related services and for ensuring that the requirements of the Federal Individuals with Disabilities Education Act are carried out. Other state agencies which provide services for children with disabilities are directed to cooperate in the establishment and support of the system. Agencies with responsibilities under this chapter include: the Department of Mental Retardation, the School for the Deaf and the Blind, the Commission for the Blind, the Department of Health and Environmental Control, the Department of Mental Health, the State Department of Social Services, Continuum of Care, and the State Department of Education.
All public education programs for children with disabilities within the State, including all programs administered by any other state or local agency, are under the general supervision of the persons responsible for education programs for children with disabilities in the State Department of Education and must meet the standards of the State Board of Education.
No provision of this section or of this chapter may be construed to limit the responsibilities of agencies other than the Department of Education from providing or paying for some or all of the cost of services to be provided the state's children with disabilities and the level of service must, at a minimum, be similar to that provided individuals with similar needs. If agencies are unable to agree on responsibilities for a particular child, the issue must be decided by the Children's Case Resolution System, Article 11, Chapter 11, Title 63.

SECTION 59-36-30. Assistance of state advisory council.

The state advisory council shall advise the Department of Education and the State Board of Education in developing a comprehensive service system for special education and related services to preschool children with disabilities. The assistance includes, but is not limited to:
(1) a comprehensive method of identifying children with disabilities;
(2) a public awareness program focusing on identification of preschool children with disabilities;
(3) a coordinated system of personnel development for those who serve preschool children with disabilities;
(4) formal interagency agreements which:
(a) define the financial responsibility of each agency for providing special education and related services;
(b) establish procedures for the transition of children served under Title 44, Chapter 7; and
(c) contain procedures for resolving disputes.

SECTION 59-36-40. Policies, standards, and procedures to ensure appropriate education; consultant; evaluation and placement of students; certification and credentials of personnel.

The State Board of Education, with input from the state advisory council, shall establish policies, standards, and procedures necessary to ensure that a free and appropriate education is available in the least restrictive environment and that a smooth transition from early intervention programs or initial entry into preschool programs occurs for children with disabilities. The Department of Education shall employ at least a full-time consultant in preschool education for children with disabilities. The board shall establish evaluation and placement procedures for students with disabilities who participate in the programs established under this chapter and shall determine certification requirements for teachers and appropriate credentials for all other personnel delivering education or related services in these programs.

SECTION 59-36-50. Boards of school districts to provide programs; arrangements with other districts and agencies; transportation; individualized education programs; transition.

The board of trustees of each school district shall provide a free appropriate public education consistent with Part B of the Individuals with Disabilities Education Act for all preschool children with disabilities residing in the district. Working with other agencies, the districts may enter into agreements with other districts or agencies, public or private, which maintain approved special education programs or who operate noneducational programs in which special education programming or related services might be provided by the district. In order to facilitate the implementation of this responsibility, each district shall arrange transportation for all children enrolled in preschool programs for children with disabilities who require transportation.
Beginning on their third birthday, preschool children with disabilities meeting the placement criteria developed by the State Department of Education must have available a special education program, including related services, if needed. Local education agencies must evaluate a child in accordance with criteria established by the Department of Education and develop an individualized education program within timelines that allow placement to occur on the third birthday. Evaluations conducted by other professionals or agencies within the last six months may be accepted and used in developing the initial individualized education program so as to ensure a timely initiation of that program and to avoid overtesting of the child. When children turn three between the ending date of one school year and the beginning date of the subsequent school year, an evaluation must be conducted and an individualized education program must be developed within timelines that allow for placement to occur on the beginning date of the subsequent school year. However, if the individualized education plan team determines that there is a need for summer services, these services may be provided before the beginning of the school year. School districts must adhere to the policies and procedures established by the State Department of

Education to ensure a smooth transition from the early intervention services provided to infants and toddlers under Section 44-7-2510, et seq. (BabyNet) to the district preschool program.
Early intervention service coordinators, parents of children with disabilities who are ready to enter preschool programming, or representatives of agencies or other entities providing services to a child with disabilities must notify a school district at least fourteen calendar days before a transition meeting. At least ninety days before the date on which a child becomes eligible for the preschool program, school district personnel must participate in a transition meeting requested by early intervention case managers, or representatives of agencies or other entities providing services to the child.

SECTION 59-36-60. Pre-existing responsibilities, funds and services not supplanted.

No provision of this chapter may be construed to limit the responsibility of state agencies currently providing services to preschool children with disabilities or their families. Funds provided under this statute shall not be used to supplant services previously provided by other state or federal agencies.

SECTION 59-36-70. Annual report by advisory council summarizing services for preschoolers; reports by other agencies.

(A) With the assistance of staff provided by the Department of Education, the state advisory council shall submit annually by February first of each year a report to the Interagency Coordinating Council on P.L. 99-457, the Joint Legislative Committee on Children, the Senate Finance Committee, the House Ways and Means Committee, the Senate Education Committee, and the House Education and Public Works Committee, summarizing services provided for preschool children with disabilities and their families. The report must include, but is not limited to:
(1) State Department of Education initiatives relative to preschool programs for children with disabilities;
(2) data and program information collected from the local education agencies relative to the provision of special education and related services and on its child find activities;
(3) financial information pertaining to the implementation of the program;
(4) update on the policies and procedures governing the implementation of preschool programs for children with disabilities, including recommendations for improvement of the preschool program, if needed;
(5) information provided by the state agencies designated in Section 59-36-20 to the advisory council by December first of each year in a report which will include each agency's initiatives, data, financial information, and pertinent policies and procedures relative to programs for preschool children with disabilities, as well as recommendations for improving services for these children.
(B) State agencies designated in Section 59-36-20 shall submit annually by December first of each year a report to the advisory council on a form provided by the council.

SECTION 59-36-80. Study of costs; recommendation as to weighting in connection with funding; annual determination of funding level.

The Committee to Study Formula Funding for Educational Programs shall conduct a study of the costs of the program for preschool children with disabilities and, if appropriate, recommend weights to be included in the Education Finance Act, Section 59-20-40 and report to the General Assembly no later than November 1, 1993.
Until the weightings for preschool children with disabilities are developed and funded, four-year-old children with hearing or visual disabilities and all five-year-old children with disabilities will continue to be counted for funding purposes under the Education Finance Act. Funding for all other preschool students with disabilities will be provided for in the General Appropriations Act.
The General Assembly shall determine annually in the General Appropriations Act the amount of funding necessary to carry out the provisions of this chapter.