

## Federal IDEA Part C & Part B Transition Requirements for Late Referrals to IDEA Part C ( $\leq 135$ days before child's 3rd birthday)

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### Introduction and Purpose

This Individuals with Disabilities Education Act (IDEA) transition timeline resource was developed as a technical assistance (TA) document by the Office of Special Education Programs (OSEP) TA Priority Team on Early Childhood Transition in response to questions raised by states about the IDEA early childhood transition requirements and how they might best fulfill them, particularly considering the 2011 Part C regulations.

When children are referred to Part C as they are approaching age 3, there are different program and Annual Performance Report (APR) reporting requirements for the IDEA Part C and Part B Programs depending on the child's age. The Part C requirements for these "late referrals" vary for three distinct ranges of days before the child's third birthday: referred less than 45 days, referred and determined eligible between 46 and 90 days, and determined eligible between 91 and 135 days. Most of the requirements for this last time frame are similar to those for all children referred to Part C prior to 90 days before their 3rd birthday; however, some reporting requirements and recommended practices are unique for this time frame.

This document illustrates the requirements, roles and responsibilities of the Parts C and B programs within a time period and, within each program, across the three time periods. The information in this document is based on the IDEA 2004 Statute, the 2011 IDEA Part C Regulations and the 2006 IDEA Part B Regulations that relate to transition and child find, and the *OSEP Early Childhood Transition FAQs on State Performance Plan/Annual Performance Report (SPP/APR) Indicators C-8 and B-12* released December 1, 2009.

Coordination between the IDEA Part C and Part B program is critical to ensure that both programs can reach and maintain 100% compliance with SPP/APR Indicators C8 and B12 on early childhood transition. States must have transition agreements between the Part C and Part B preschool programs to address transition. It is also critical to ensure that families gain an understanding of the different service delivery systems and their options in a compassionate and meaningful way. And finally, it is important to ensure that children receive the services they need to promote their learning and development. Collaboration between the two programs helps families and children adjust to, and prepare for, this period of transition.

The IDEA Part C and Part B programs are strongly encouraged to work together to develop collaborative State and local practices to ensure smooth transitions for children and families and that both programs meet the required timelines.

The IDEA statute and applicable regulations can be accessed at:

- IDEA 2004 Statute (P.L. 108-446) see Parts B and C  
<https://sites.ed.gov/idea/statute-chapter-33/>

- IDEA Federal Regulations at 34 CFR Parts 300  
<https://sites.ed.gov/idea/regs/b>
- IDEA Federal Regulations at 34 CFR Parts 303  
<https://sites.ed.gov/idea/regs/c>

## Federal IDEA Part C Transition Requirements for Late Referrals to Part C

### **Required Activities** (*between 135 days [31.5 mos.] and 91 days [33 mos.] prior to child's 3rd birthday*)

#### **APR Indicator C7 (45 day timeline):**

Within 45 days of referral, conduct evaluation to determine eligibility, conduct assessments, and conduct initial IFSP meeting to develop initial IFSP with transition plan (including steps and services). If determined eligible and thus receiving service coordination, child is considered toddler with disability served by Part C.

#### **APR Indicator C8A (Transition Plan):**

Develop transition plan in IFSP at least 90 days and no more than 9 months prior to child's 3rd birthday for all toddlers with disabilities. Transition plan must include transition steps and services, including confirming transition notification and documents (evaluation and IFSP) shared with LEA with parental consent (if EIS provider or Lead Agency are not participating agency with the SEA or LEA or State law requires consent to share personally identifiable information with applicable LEA).

Must provide parents of toddlers with disabilities with information (as part of public awareness) regarding the Part B 619 preschool program at least 90 days prior to the child's 3rd birthday.

#### **APR Indicator C8B (Notification to SEA and LEA):**

Provide transition notification to SEA and LEA of residence at least 90 days prior to child's 3rd birthday for Part C toddlers with disabilities determined eligible under Part C and who are determined potentially eligible for Part B unless State has opt-out policy on file with OSEP and parent opts out. States with opt-out policies exclude in Indicator 8B toddlers with disabilities whose parents opted out.

#### **APR Indicator C8C (Transition Conference):**

With family approval, conduct transition conference at least 90 days (and at the discretion of all parties up to 9 months) prior to child's 3rd birthday for toddlers with disabilities determined eligible under Part C and who are determined potentially eligible for Part B. The transition conference may be combined with the initial IFSP meeting. Invite Part B to transition conference.

#### **Part C Transition Reporting Requirements:**

**Note:** Report in C8A, 8B, and 8C. Under 8B, report on the transition notification for children potentially eligible. In 8C, if transition conference is late, note reason for delay and the number of children impacted.

#### **Recommended Collaborative Practices:**

May jointly conduct evaluation for respective eligibility criteria to meet Part C and B timelines, but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.

### **Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) Part C's definition of "potentially eligible for Part B;" (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and Part B eligibility criteria.

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## **Required Activities *(between 90 days [33 mos.] and 46 days [34.5 mos.] prior to child's 3rd birthday)***

### **APR Indicator C7 (45 day timeline):**

Within 45 days of referral, conduct evaluation to determine eligibility, conduct assessments, and conduct initial IFSP meeting to develop initial IFSP with transition plan (including steps and services). If determined eligible and receiving service coordination, child is considered served by Part C.

### **APR Indicator C8A (Transition Plan):**

Transition plan is **NOT** required, but initial IFSP must include appropriate transition content. These children are **NOT** reported under Indicator 8A.

May provide parents with information (as part of public awareness) regarding Part B 619 preschool program.

### **APR Indicator C8B (Notification to SEA and LEA):**

Transition notification to SEA and LEA of residence required as soon as possible once child determined eligible unless State has opt-out policy and parent opts out. These children are **NOT** reported under Indicator 8B.

### **APR Indicator C8C (Transition Conference):**

Transition conference is **NOT** required. These children are **NOT** reported under Indicator 8C.

### **Part C Transition Reporting Requirements:**

**Note: DO NOT** report in C8A, 8B and 8C

### **Recommended Collaborative Practices:**

May jointly conduct evaluation for respective eligibility criteria to meet Part C and B timelines, but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.

### **Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) Part C's definition of "potentially eligible for Part B;" (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and Part B eligibility criteria.

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## **Required Activities *(between 45 days prior to child's 3<sup>rd</sup> birthday [at age 34.5 months] and child's 3rd birthday)***

### **APR Indicator C7 (45 day timeline):**

Can choose **NOT** to conduct initial evaluation, child and family assessments and initial IFSP meeting. Child is **NOT** considered served by Part C if child is referred to, but not determined eligible under, Part C.

### **APR Indicator C8A (Transition Plan):**

Initial IFSP is not required to be developed. These children are **NOT** reported under Indicator 8A.

May provide parents with information (as part of public awareness) regarding Part B 619 preschool program.

### **APR Indicator C8B (Notification to SEA and LEA):**

Transition notification to SEA and LEA of residence is **NOT** required, and child is referred to Part B with parental consent (if required to disclose personally identifiable information) if child is potentially eligible.

### **APR Indicator C8C (Transition Conference):**

Transition conference is **NOT** required. These children are **NOT** reported under Indicator 8C.

### **Part C Transition Reporting Requirements:**

**Note: DO NOT** report in C8A, 8B and 8C

### **Recommended Collaborative Practices:**

**NO** Part C evaluation is required during this time period.

### **Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) Part C's definition of "potentially eligible for Part B;" (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and Part B eligibility criteria.

## **Federal IDEA Part B Transition Requirements for Late Referrals to Part C**

### **Required Activities *(between 135 days [31.5 mos.] and 91 days [33 mos.] prior to child's 3rd birthday)***

**Note:** LEA must participate in Part C transition conference for children determined eligible under Part C and potentially eligible for Part B.

### **APR Indicator B11 (Timely evaluation):**

Provide procedural safeguards notice to parents upon referral by Part C (SEA and LEA notified that child served under Part C is potentially eligible for Part B).

Provide prior written notice and obtain parental consent for initial evaluation.

Review existing evaluation data on the child, including Part C evaluation and assessments.

Conduct initial evaluation (within 60 days of receipt of parental consent or State-established timeframe or sooner if evaluation timeline expires after 3rd birthday) and determine eligibility by 3rd birthday.

Inform family that Part C service coordinator must be invited to IEP meeting at parent's request; invite Part C service coordinator if parent requests and obtain parental consent to disclose personally identifiable information to Part C, if required.

**APR Indicator B12 (IEP by 3rd Birthday):**

Conduct IEP meeting to develop IEP within 30 days of eligibility determination (or sooner if 30 days expires after 3rd birthday). Consider IFSP when developing IEP, provide prior written notice, and obtain parental consent for services.

Implement IEP by child's 3rd birthday, including dates for initiation of special education and related services.

**Part B Reporting Requirements:**

**Note:** Report in B11 and B12(a)

**Recommended Collaborative Practices:**

May jointly conduct evaluation for respective eligibility criteria to meet Parts C and B timelines, but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.

**Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) a definition of "potentially eligible for Part B;" (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and B eligibility criteria.

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**Required Activities (between 90 days [33 mos.] and 46 days [34.5 mos.] prior to child's 3rd birthday)**

**Note:** Transition conference is **NOT** required.

**APR Indicator B11 (Timely evaluation):**

Provide procedural safeguards notice to parents upon referral by Part C (SEA and LEA notified that child served under Part C is potentially eligible for Part B).

Provide prior written notice and obtain parental consent for initial evaluation.

Review existing evaluation data on the child, including Part C evaluation and assessments.

Conduct initial evaluation (within 60 days of receipt of parental consent or State-established timeframe) and determine eligibility.

Inform family that Part C service coordinator must be invited to IEP meeting at parent's request; invite Part C service coordinator if parent requests and obtain parental consent to disclose personally identifiable information to Part C, if required.

**APR Indicator B12 (IEP by 3rd Birthday):**

Conduct IEP meeting to develop IEP within 30 days of eligibility determination. Consider IFSP when developing IEP, provide prior written notice, and obtain parental consent for services.

Implement IEP by child's 3rd birthday or as soon after the child's 3rd birthday as possible.

**Part B Reporting Requirements:**

**Note:** Report in B11, B12 (a) and B12 (e)

**Recommended Collaborative Practices:**

May jointly conduct evaluation for respective eligibility criteria to meet Parts C and B timelines, but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.

### **Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) a definition of “potentially eligible for Part B;” (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and B eligibility criteria.

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### **Required Activities (between 45 days [34.5 mos.] prior to child’s 3<sup>rd</sup> birthday and child’s 3<sup>rd</sup> birthday)**

**Note:** Transition conference is **NOT** required.

#### **APR Indicator B11 (Timely evaluation):**

If Part C refers to Part B, Part B contacts parent. If parent initiates request for an initial evaluation, provide parents with procedural safeguards notice.

Provide prior written notice and obtain parental consent for initial evaluation.

Review existing evaluation data on the child, including Part C evaluation and assessments.

Conduct initial evaluation (within 60 days of receipt of parental consent or State-established timeframe) and determine eligibility.

Service coordinator is **NOT** invited to IEP meeting since child was not served in Part C.

#### **APR Indicator B12 (IEP by 3<sup>rd</sup> Birthday):**

Conduct IEP meeting to develop IEP within 30 days of eligibility determination. Consider IFSP when developing IEP, provide prior written notice, and obtain parental consent for services.

Implement IEP as soon as possible after development.

#### **Part B Reporting Requirements:**

**Note:** Report in B11. **DO NOT** report in B12.

#### **Recommended Collaborative Practices:**

**NO** Part C evaluation is required during this time period.

### **Interagency Agreement:**

Develop inter- or intra-agency agreement that includes: (1) a definition of “potentially eligible for Part B;” (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and B eligibility criteria.

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