



The Early Development Network Co-lead Agencies, Nebraska Departments of Education and Health and Human Services, provide this clarification document in response to inquiries concerning implementation of the Individuals with Disabilities Education Act (IDEA) Part C evaluation and assessment timelines respective to referral requirements related to the Child Abuse Prevention and Treatment Act (CAPTA), state wards, and receipt of the Superintendent letter from DHHS-CFS. This clarification document does not impose any additional requirements beyond those included in applicable law and regulations.

INITIAL EVALUATION AND ASSESSMENT TIMELINE

IDEA Part C requires a timely, comprehensive, multidisciplinary evaluation to determine the eligibility of each child, birth through age two, who is referred for an evaluation or early intervention services and suspected of having a disability. If the child is determined eligible, an assessment is conducted to determine the appropriate early intervention services and supports for the child and family.

The IDEA Part C 45-calendar day timeline is in 34 C.F.R. §§ 303.310, 303.342(a) and 303.345(c). The 45-day timeline applies to:

- 1) the initial evaluation,
- 2) the initial child and family assessment, and
- 3) the initial IFSP meeting.

This timeline requirement includes two allowable exceptions:

- 1) The child or parent is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
- 2) The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the State LA or EIS provider to obtain parental consent.

The delay of receipt of the Superintendent letter from DHHS-CFS for infants/toddlers who are state wards does not constitute an allowable exception to the IDEA Part C 45-calendar day timeline as outlined above. The initial evaluation, child and family assessment, and the initial IFSP meeting cannot be delayed beyond the 45-calendar day timeline due to districts and/or services coordination agencies waiting to receive the DHHS-CFS Superintendent letter.

The EDN Co-lead agencies are aware of instances of significant untimely delays of obtaining parental consent and provision of initial evaluations, assessments and IFSP meetings for CAPTA-referred children due to districts and services coordination agencies waiting on receipt of the superintendent letter to determine district responsibility of provision of evaluation, assessment, and services. Districts and services coordination agencies must accept the referral and attempt to obtain parental consent for initial evaluation and assessment in a timely manner, consistent with all applicable federal and state regulations, procedures, and timelines.

480 NAC 1-006.04 Services Coordination Agency Requirements

The services coordination agency must:

- (A) Accept referrals from any source;
- (B) Document the date of referral and gather general demographic information about the child and family; and
- (C) Assign a services coordinator who will be responsible for:
 - (i) **Contacting the family within seven calendar days of the receipt of the referral** to set up a face-to-face meeting at a time and place mutually agreed upon; and
 - (ii) **Completing the face-to-face meeting within seven calendar days of the initial contact** unless the family requests a delay. The face-to-face meeting **must include**:
 - (1) **Providing written notice and obtaining written consent for the child's initial screening and evaluation**;
 - (2) Continuing to work with the family, according to the family's needs and wishes until a decision is made as to the eligibility of the child; and
 - (3) Notifying the referral source of the referral outcome, with the permission of the family.

480 NAC 1-007.03 POST-REFERRAL TIMELINES

The screening, evaluation, and assessment of the child, family assessment, and the Individualized Family Service Plan (IFSP) meeting **must take place within 45 calendar days of the referral**.

Rule 52-006.02 Post-Referral (45 Days) Timeline

006.02A Except as provided in 92 NAC 52-006.02B, school districts and approved cooperatives shall complete any screening under 92 NAC 52-006.03 (if the parent consents); the initial evaluation and the initial assessments of the child and the family under 92 NAC 52-006.05; and shall participate in the initial Individualized Family Service Plan (IFSP) meeting under 92 NAC 52-007.03 **within 45 calendar days from the date of referral**.

Parents have the right to exercise the Dispute Resolution procedures available under IDEA Part C for any delay of the 45-calendar day timeline that are not attributable to exceptional family circumstances as outlined in federal and state regulations.

STATE WARD RESIDENCY POLICY

The Nebraska Department of Education's state ward residency policy outlines residency determinations and district responsibility for provision of IFSP/IEP services:

<https://www.education.ne.gov/wp-content/uploads/2017/07/residency-ward.pdf>

This information should be utilized in collaboration with, or in the absence of, the DHHS-CFS Superintendent letter to ensure all federally required timelines for evaluation, assessment, and IFSP development are adhered to.