

2023 EARLY CHILDHOOD TRANSITION QUESTIONS AND ANSWERS

This IDEA 2023 Early Childhood Transition Questions and Answers document (2023 EC Transition Q&A) under the Individuals with Disabilities Education Act (IDEA) incorporates longstanding policy and provides further clarification on early childhood transition requirements as children transition from the IDEA Part C early intervention program to the IDEA Part B preschool program, in response to questions received by the Office of Special Education Programs (OSEP). This document updates OSEP’s 2009 Early Childhood Transition Frequently Asked Questions (2009 FAQs) based on the 2011 IDEA Part C regulations and supplements the 2009 FAQs (which addressed transition data reporting questions under State Performance Plan/Annual Performance Report (SPP/APR)). It also incorporates guidance from OSEP’s 2011 Letter to Infants and Toddler Coordinators Association (ITCA) and National Association of State Directors of Special Education (NASDSE), as well as OSEP’s 2023 Letter to Nix.

The purpose of this 2023 EC Transition Q&A is to assist State lead agencies (LAs), early intervention services (EIS) program and providers,¹ State educational agencies (SEAs), and local educational agencies (LEAs) in ensuring a seamless transition for children with disabilities who received EIS under IDEA Part C to eligibility for and receipt of preschool services under IDEA Part B.

LAs and SEAs must respectively monitor the implementation of IDEA Parts C and B requirements, with a primary focus on improving early intervention and educational results and functional outcomes for all children with disabilities² and their families. 34 C.F.R. §§ 300.600(b) and 303.700(b). On July 24, 2023, OSEP issued guidance clarifying States’ general supervision responsibilities under IDEA Parts B and C.³ That guidance envisions that State general supervision systems under IDEA help ensure statewide accountability and the full implementation of IDEA that supports the improvement of functional outcomes and results for children with disabilities.⁴ Establishing and implementing an integrated general supervision system supports the provision of early intervention services, supports developmental growth opportunities to infants and toddlers with disabilities⁵ and their families, and ensures children

¹ The term “EIS provider” is defined in 34 C.F.R. § 303.12. “EIS provider” is different from the term “EIS program,” which is defined in 34 C.F.R. § 303.11 as the entity designated by the LA for reporting performance in the SPP/APR under 34 C.F.R. §§ 303.700 through 303.702.

² This document refers to “children” and “children with disabilities” to mean both “infants and toddlers with disabilities” or “infants, toddlers, children and youth with disabilities” under IDEA Parts B and C.

³ Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA (2023 General Supervision Guidance).

⁴ OSEP ensures that States meet their IDEA general supervision requirements through various mechanisms including the grant, SPP/APR, IDEA data collection, DMS monitoring and other components.

⁵ The term “infant and toddler with a disability” is defined in 34 C.F.R. § 303.21.

with disabilities have the appropriate services necessary to prepare them for further education, employment, and independent living.

As part of their general supervision systems, States must monitor to ensure compliance with early childhood transition activities and timelines as described in 34 C.F.R. §§ 303.209 and 300.124.

The transition of children served through an individualized family service plan (IFSP) under Part C to an individualized education program (IEP) under Part B, Section 619 (preschool) programs, or to other community early childhood programs, requires timely and effective coordination and collaboration. To this end, LAs and SEAs should develop and maintain mechanisms that clearly define and support the accountability measures used within and between LEAs and EIS programs and providers, or other early childhood programs, to ensure smooth and seamless transitions. This includes State and local teams conducting ongoing analysis to assess their policies, procedures, and practices and identify improvement activities that enhance the infrastructure necessary to support successful transitions.⁶

IDEA requires the State LA and the SEA to develop and implement agreements and policies that reflect the importance of early childhood transition. Consistent with 34 C.F.R. § 303.209(a)(3), the State LA is required to have intra-agency or interagency agreement(s)⁷ outlining how the LA and the SEA will meet the requirements in 34 C.F.R. §§ 303.209(b) through (f), 303.344(h), 303.401(d) and (e) and 34 C.F.R. §§ 303.101(b), 300.124, 300.321(f), and 300.232(b). The LA must also have in place and on file with OSEP policies and procedures regarding how the State will meet the transition requirements in 303.209(b) through (f). *See*, 34 C.F.R. § 303.209(a)(1) & (2). These policies, procedures, and agreements help ensure that IDEA Part C children receive appropriate transition services and that IDEA Part B eligible children with disabilities receive timely and appropriate special education and related services designed to meet their needs. The failure of the State LA and SEA to ensure compliance respectively by their EIS programs or providers and LEAs with these requirements has serious implications for ensuring the provision of appropriate early intervention services to children with disabilities and their families under Part C and the provision of a Free Appropriate Public Education (FAPE) to children with disabilities under Part B.

There are resources on various models for collaboration and coordination available, as well as exemplars for how State agencies and local programs can develop policies and procedures and agreements as required under 34 C.F.R. §§ 303.209(a)(2) to operationalize the day-to-day processes specific to transition.⁸ Effective State and/or local level intra- or interagency agreements should:

- Define the roles and responsibilities of IDEA Parts B and C personnel;

⁶ See Designing and Implementing Effective Early Childhood Transition Processes.

⁷ To access the Grant Application transition requirements, see Resources for Grantees Transition Checklist.

⁸ See ECTA Center: State Examples for Transition and DaSy, The Center for IDEA Early Childhood Data Systems.

- Provide specific information on policies, procedures, and service arrangements that support non-duplication of services and ensure seamless service delivery;
- Identify methods and timelines for communication across and between agencies or programs;
- Identify how data are to be shared between agencies;⁹ and
- Describe how a comprehensive plan for professional development will be implemented and evaluated based on analysis of both quantifiable and qualitative data and input from all stakeholders, including parents and families.

The questions and answers included in this document clarify the respective IDEA Parts B and C responsibilities in implementing these early childhood transition requirements for infants and toddlers with disabilities into preschool special education or other early childhood programs, including appropriate monitoring, technical assistance, and accurate reporting of data and other required information for the SPP/APR transition indicators (SPP/APR Part C Indicator 8A, 8B and 8C and SPP/APR Part B Indicator 12).

Responsibilities of Lead Agency or Early Intervention Service Programs or Providers

The purpose of developing a transition plan is to provide support to children and families exiting IDEA Part C services at age three, or before, as appropriate, and to identify roles, responsibilities, and timelines to ensure a smooth transition into special education preschool, other early childhood programs, or appropriate services. Even before a transition plan is established, EIS programs and providers can prepare families for seamless transitions early and often throughout the time the family spends receiving Part C early intervention services and supports. During intake, EIS programs and providers should clearly describe the eligibility criteria, including the age range for IDEA Part C services, and assure the family that, as they approach the child's third birthday, they will be engaging in more detailed conversations about their child's transition. At age two, EIS programs and providers continue to support families by providing more details about what to expect as they prepare for transition activities, such as updating assessment information to share with the LEA, with parental consent, asking parents what identified service options they believe could be appropriate for their child, and/or facilitating visits with early childhood programs so that families are aware of the differences in scope of these programs, and can make informed decisions.

⁹ The guidance from the U.S. Department of Education, *Understanding the Confidentiality Requirements Applicable to IDEA Early Childhood Programs* (October 2016) explains IDEA and the Family Educational Rights and Privacy Act (FERPA) and identifies options for data sharing to support young children with disabilities. *See also*, U.S. Department of Education, *IDEA/FERPA Crosswalk* (August 2022).

Responsibilities for Notification

Q 1: What are the LA’s responsibilities under Part C of the IDEA regarding development of a transition plan for toddlers with disabilities, consistent with 34 C.F.R. § 303.209(d)?

A 1: The LA must ensure that a transition plan is established in the child’s IFSP not fewer than 90 days (and at the discretion of all parties, not more than nine months) before the third birthday for *all* toddlers who are exiting Part C and not just those who are potentially eligible for Part B. 34 C.F.R. § 303.209(d).

The transition plan must include steps for the toddler with a disability and their family to exit from the Part C program and any transition services that the IFSP Team identifies as needed by that toddler and their family. 34 C.F.R. §§ 303.209(d)(3) and 303.344(h). Steps included in the IFSP’s transition plan should support the child’s transition to an early childhood program, and may include one of the following:

- Preschool services under IDEA Part B;
- Public Pre-Kindergarten;
- Head Start;
- Childcare program;
- Other appropriate early childhood services;¹⁰
- Continued early intervention services for children with disabilities from age three until the beginning of the school year following the child’s third birthday;¹¹ and
- Continued early intervention services for children participating under a State’s extended Part C option in IDEA Section 635(c) and 34 C.F.R. § 303.211¹² from

¹⁰ State policies must address toddlers who are not potentially eligible for Part B services, unless the policy makes clear that all children served under Part C are treated as potentially eligible under Part B.

¹¹ A State may use its fiscal year (FFY) 2021, 2022, and 2023 funds it receives under IDEA Section 633 to offer continued early intervention services to a child who previously received services under Part C and who is eligible to receive services under section 619 of Part B of the Act from age three until the beginning of the school year following the child's third birthday with parental consent and without regard to the procedures in IDEA Section 635(c).

¹² Under IDEA Section 635(c) and 34 C.F.R. § 303.211, a State may develop and implement a policy under which parents of children who are receiving early intervention services and who are eligible to receive services under section 619 of Part B of the Act can choose for these children to continue receiving early intervention services under Part C of the Act. At the State’s option, early intervention services could be available to these children beyond age three until they enter, or are eligible under State law to enter, kindergarten. The FFY 2021, 2022 and 2023 IDEA Part C appropriations authorities allow States to serve children beyond age three until the beginning of the school year following the child’s third birthday without regard to the procedures required in IDEA section 635(c) but they must submit and obtain OSEP approval for the policy that is jointly developed by the State LA and SEA.

age three until the beginning of the school year following the child's third, fourth, or fifth birthday (depending on the policy adopted by the State) but no later than when the child enters kindergarten.

Additionally, when reporting on SPP/APR Part C Indicator 8 (Early Childhood Transition),¹³ States are required to provide information, including the percentage of toddlers with disabilities exiting Part C who have an IFSP with transition steps and services at least 90 days, and at the discretion of all parties, not more than nine months, prior to their third birthday. The LA's and EIS program's or provider's failure to develop a timely transition plan represents noncompliance with IDEA Part C requirements and may potentially cause a delay in the development and implementation of the initial IEP. Such a delay would result in a denial of FAPE and restrict access to appropriate education services necessary to prepare them for further education, and the noncompliance must be reflected in the State's SPP/APR. Further, the State must take steps to ensure the noncompliance is corrected for each individual child affected and ensure regulatory requirements are met consistently.

Q 2: What are the LA's responsibilities under Part C of the IDEA regarding the transition notification to the SEA and LEA to ensure a seamless transition for toddlers with disabilities turning three years old who are identified as *potentially eligible* for preschool services under Part B of the IDEA, consistent with 34 C.F.R. § 303.209(b)?

A 2: The LA must ensure that it provides the SEA and LEA with notification of toddlers with disabilities who are identified as *potentially eligible* for preschool services under IDEA Part B. The purpose of the transition notification is to ensure that toddlers with disabilities and their families experience a smooth and effective transition from the early intervention services under Part C to preschool services under Part B or other appropriate services. Many States include in their policies a definition of which toddlers with disabilities are "potentially eligible" for preschool service under Part B.

For toddlers with disabilities who are exiting Part C and *potentially eligible* for Part B services, the LA must notify, not fewer than 90 days before the toddler's third birthday, the SEA and the LEA for the area where the toddler resides that the toddler on their third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law. 34 C.F.R. § 303.209(b)(1)(i).¹⁴ (See question 15

¹³ See Resources for Grantees – SPP/APR.

¹⁴ For the time period in which transition notification must be made, States are not required to have an outer limit (e.g., the nine-month maximum time period that is required for transition plans and conferences). A State may adopt an outer limit on the time period for transition notification (such as 12 to nine months prior to the child's 3rd birthday), provided that the notification must occur not later than the 90-day minimum time frame.

for children who are referred to Part C programs less than 90 days prior to their third birthday).

The transition notification to the SEA and LEA must include the child's name, date of birth, and parent contact information (name, home and email address, telephone number). 34 C.F.R. §§ 303.209(b)(1)(i) and 303.401(d). The transition notification by the Part C EIS provider to the SEA and appropriate LEA is critical to ensure that the Part B programs can meet their responsibilities. The purpose of the transition notification is to ensure implementation of the IDEA Part B child find mandate in 34 C.F.R. § 300.111. Thus, the transition notification to the SEA and LEA may also include the Part C service coordinator's name and contact information as well as the language(s) spoken by the child and parent(s) to further assist the SEA and LEA in meeting their child find responsibilities.

The purpose of notifying the LEA in advance of a child who is exiting Part C services and potentially eligible for services under IDEA Part B, is to provide sufficient time for appropriate individualized planning to ensure that the evaluation can be conducted within the 60-day or State-imposed timeline and the IEP meeting is held within 30 days. These requirements jointly necessitate that the LEA have at least 90 days to ensure that an IEP is developed and being implemented by the child's third birthday. In addition to the notification requirements, the LA and EIS program or provider may share, with parental consent, updated assessment information and the current IFSP with the LEA to aid in the identification of missing or additional information necessary to determine the child's eligibility for Part B services.

Additionally, under SPP/APR Part C Indicator 8B, States are required to report the percentage of toddlers with disabilities exiting Part C where notification (consistent with any opt-out policy adopted by the State) to the SEA and LEA occurred at least 90 days prior to their third birthdays for toddlers potentially eligible for Part B preschool services. Likewise, under SPP/APR Part B Indicator 12 (Early Childhood Transition), SEAs and LEAs must report on the percentage of children referred by Part C prior to age three, who are eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

The LA and EIS program's or provider's failure to timely notify the SEA and LEA represents noncompliance with IDEA Part C requirements and may potentially cause a delay in the LEA requesting the parent's consent to conduct an initial evaluation to determine the child's eligibility for services as required under Part B (34 C.F.R. § 300.300). Such noncompliance must be reflected in State's Part C and Part B SPP/APRs. Further, the State must take steps to ensure the noncompliance is corrected for each individual child affected and ensure regulatory requirements are met.

Q 3: What are the requirements under IDEA Part C regarding an opt-out policy adopted by the LA as part of the State’s early childhood transition policies?

A 3: The transition notification must be consistent with any opt-out policy adopted by the LA as part of the State’s early childhood transition policies under 34 C.F.R. §§ 303.209(a)(4) and (b) and 303.401(e) and submitted to OSEP under section II.A of its IDEA Part C grant application. 34 C.F.R. § 303.209(a)(2). If the LA has adopted an opt-out policy, the EIS program or provider must inform the parents of a toddler with a disability of the intended transition notification disclosure and allow the parents a specified time to object in writing to the SEA and LEA notification. 34 C.F.R. § 303.401(e)(1). If the parents object within the time period established by the LA, the EIS program or provider cannot make the disclosure. 34 C.F.R. § 303.401(e)(2).

Consistent with longstanding OSEP guidance, an opt-out policy should specify:¹⁵

- When parents will be notified;
- How parents will be notified;
- The length of time parents have to opt out;
- How parents can opt out (note that parents can opt out only in writing); and
- The contents of the notice, which must include:
 - The information to be disclosed (child’s name and date of birth and parent contact information);
 - The right to opt out of disclosure;
 - The time period the parent has to notify the LA that the parent is opting out; and
 - How the parent can opt out (in writing).

The Part C LA is responsible for fully explaining (or including a copy of) any policy allowing families to opt out of SEA and LEA Notification in its Part C grant application, as part of its description of the policies and procedures submitted under Section II.A.10. The policy must be subject to the Part C public participation requirements in 34 C.F.R. §§ 303.110 through 303.113 and should be jointly developed with the SEA and included in the LA and SEA/LEA’s transition memorandum of understanding.

It is important to distinguish the opt-out policy from two separate consent/approval requirements at transition. First, the transition conference under IDEA section 637(a)(9)(A)(ii)(II) and 34 C.F.R. § 303.209(c) requires “the approval of the family.”

¹⁵ Under 34 C.F.R. §§ 303.401(e)(2.), if a parent (in a State that has adopted the policy described in paragraph (e)(1) of this section) objects during the time period provided by the State, the LA and EIS provider are not permitted to make such a disclosure under paragraph (d) of this section and §§ 303.209(b)(1)(i) and (ii).

This approval is an affirmative response that may be orally provided (unlike the opt-out policy which instead assumes parent's approval and allows written objection to rebut the presumption that parents want to automatically participate in the Part B eligibility process).

Secondly, opt-out also differs from the consent that is generally required under 34 C.F.R. §§ 303.402, 303.414(a), and 303.420(a)(5) to disclose personally identifiable information in the IFSP and other parts of the early intervention record to an SEA and LEA that is not a participating agency under Part C. The consent to disclose this additional information must be in writing and informed under 34 C.F.R. § 303.401(a). As part of developing the transition plan in the IFSP under 34 C.F.R. § 303.344(h)(2), the IFSP Team may transmit (with appropriate parental consent where required) those pertinent records (such as the most recent evaluations or medical diagnosis reports) that would assist the SEA and LEA in determining whether a child is suspected of having a disability under Part B.

Q 4: Can the LA invitation to the LEA to attend a transition conference under 34 C.F.R. § 303.209 meet the LA responsibility to provide Notification to the SEA and applicable LEA under 34 C.F.R. § 303.209(b)(1)(i) and be reported in SPP/APR Part C Indicator 8B and Part B Indicator 12?

A 4: Yes, the invitation to the LEA representative for the transition conference for those children potentially eligible for Part B can serve as the notification to the SEA and applicable LEA for such children, provided that the invitation (i) is sent not fewer than 90 days prior to the child's third birthday, as required under 34 C.F.R. § 303.209(b)(1)(i), (ii) includes the information identified in response to Question 2, and (iii) is provided to both the SEA and applicable LEA and reported in SPP/APR's Part C Indicator 8B and Part B Indicator 12.

While this is not the practice in all States, if the LA has adopted this as a State policy, then its interagency or intra-agency agreement on early childhood transition that is required under 34 C.F.R. §§ 303.209(a)(3)(i)(A) and (B) should codify this policy and include the actual procedures for EIS programs and providers and LEA personnel. If there is no statewide policy, local transition agreements should reflect this policy if it is adopted by the local EIS program or provider. If local programs vary, the LA and SEA as part of their general supervision responsibilities must ensure that the EIS program/provider and the LEA respectively are in compliance with IDEA.

Q 5: What are the SEA’s and LEA’s Part B responsibilities when the transition notification is received from the Part C EIS provider to ensure a seamless transition for toddlers with disabilities who were served¹⁶ under IDEA Part C and who are identified as potentially eligible for preschool services under IDEA Part B consistent with 34 C.F.R. §§ 300.124 and 303.209?

A 5: The SEA must have in effect policies and procedures to ensure children participating in Part C early intervention, and who are potentially eligible for preschool programs under Part B, experience a smooth and effective transition to those programs. 34 C.F.R. § 300.124. The LA’s transition notification to the SEA and appropriate LEA must be treated as an initial referral under Part B under 34 C.F.R. § 300.504(a)(1) and OSEP’s 2023 Letter to Nix. An LEA must take certain specific steps upon receipt of Part C’s referral as described below.

Part B Procedural Safeguards Notice and LEA Decision to Conduct an Initial Evaluation:

Upon receipt of the referral from Part C, the LEA must provide the child’s parent with a copy of the procedural safeguards notice as required under 34 C.F.R. § 300.504. Further, the LEA must take one of two actions. If the LEA suspects the child has a disability under Part B, the LEA must request the parent’s consent to conduct an initial evaluation to determine the child’s eligibility for services under Part B (34 C.F.R. § 300.300) and, if the parent provides consent, conduct the evaluation. However, if the LEA does not suspect that the child has a disability under Part B, the LEA must provide the parent written notice consistent with 34 C.F.R. § 300.503 that explains, among other things, the basis for its decision and a statement that the parents have protections under the Part B procedural safeguards. These safeguards include the parent’s right to request a due process hearing or file a State complaint if the parent believes the LEA should evaluate the child.¹⁷

The interagency or intra-agency agreement that is required under 34 C.F.R. §§ 303.209(a)(3)(i)(A) and (B) should describe how and when the parent is provided procedural safeguards, considering the State’s process and procedures for sending the notification to the SEA and LEA. For example, if the LA and EIS program or provider sends a list of children exiting Part C services in the next six months in a single notification, the SEA and LEA must have a process for providing each parent with their procedural safeguards upon receipt of the referral from Part C. 34 C.F.R. § 300.504(a)(1).

Initial Evaluation:

In general, IDEA requires that all children served under Part C and referred for services under Part B who are suspected of having a disability under Part B: (1) must be evaluated

¹⁶ A child who has been determined eligible under Part C (and is thus receiving service coordination services) is considered to have been “served under Part C” for this purpose.

¹⁷ For more information, see 71 Fed. Reg. 46540, 46636 and OSEP Memorandum 11-07 (Jan. 21, 2011). Also, see Question B-2 in OSEP’s Questions and Answers on Part B Child Find (Aug. 24, 2021).

and their eligibility determined under Part B; and (2) if determined eligible, must have an IEP developed and implemented by their third birthdays. 34 C.F.R. §§ 300.101(b), 300.124(b), and 303.209. With the parent's consent, the LEA must conduct the initial evaluation of a child suspected of having a disability under IDEA in accordance with the specified procedures and within the 60-day timeline or its State-established timeline consistent with 34 C.F.R. § 300.301.

Eligibility Determination:

Upon completion of assessments and other evaluation measures, a group of qualified professionals and the child's parent determine whether the child is a child with a disability under Part B and the educational needs of the child. 34 C.F.R. § 300.306(a)(1). The LEA must provide a copy of the evaluation report and the documentation of determination of the child's eligibility at no cost to the parent. 34 C.F.R. § 300.306(a)(2).

Initial IEP Meeting and Development of the IEP:

A meeting to develop the IEP for a child must be conducted within 30 days of a determination that the child needs special education and related services. As soon as possible following development of the IEP, special education and related services must be made available to the child in accordance with their IEP. 34 C.F.R. § 300.323(c). For toddlers with disabilities who are referred from Part C to Part B, the 60-day evaluation timeline in 34 C.F.R. § 300.301(c)(1) and the 30-day IEP meeting timeline in 34 C.F.R. § 300.323(c)(1) are subject to the requirement that a child who transitions from Part C to Part B has an IEP developed and implemented by the time the child reaches age three. Thus, the 90-day Part C transition notification period prior to the toddler's third birthday is the minimal time period necessary for an LEA to meet its responsibilities to ensure that an IEP is developed and implemented by the child's third birthday. 71 Fed. Reg. 60174 (Sept. 28, 2011).

The LEA is responsible, if the parent requests it, for inviting the service coordinator or other representative of the Part C system to the initial IEP Team meeting to assist with the smooth transition of services, under 34 C.F.R. § 300.321(f). It is a good practice for the LEA to document how it invited the Part C service coordinator and the date the invitation was sent and, if applicable, retain a copy of the invitation or notes from a phone call extending the invitation.

Transition Conference: Part C Responsibility

Q 6: What are the LA’s and EIS program’s or provider’s responsibilities under Part C of the IDEA for convening a transition conference with the LEA to ensure a seamless transition for toddlers with disabilities turning three years old who are identified as *potentially eligible* for preschool services under Part B of the IDEA, consistent with 34 C.F.R. § 303.209(c)(1)?

A 6: For a child exiting Part C who is potentially eligible for Part B preschool services, “LA, with the approval of the family of the toddler, convenes a conference among the LA, the family and the LEA, not fewer than 90 days and at the discretion of all parties, not more than 9 months before the toddler’s third birthday to discuss any services the toddler may receive under Part B.” 34 C.F.R. § 303.209(c)(1). The transition conference must meet the accessibility, convenience, and participant requirements for IFSP meetings in 34 C.F.R. §§ 303.342(d) and (e) and 303.343(a). The LA must provide written notice of the transition conference to the family and other participants, which includes the LEA, early enough before the meeting date to ensure that they will be able to attend, under 34 C.F.R. § 303.342(d)(2).

The LA may, but is not required to, combine the invitation to the transition conference in 34 C.F.R. § 303.209(c)(1) and the transition notification in 34 C.F.R. § 303.209(b). If the LA does not invite the parents and the appropriate LEA to the transition conference, it has not met the IDEA transition conference requirements in 34 C.F.R. § 303.209(c)(1). If the LA provides timely notification to the SEA and the appropriate LEA and the LEA fails to attend the transition conference, the LA must still hold the transition conference to provide the family with information about Part B preschool services and may use the transition conference meeting to develop or revise the transition plan in the child’s IFSP.

Under SPP/APR Part C Indicator 8B, States are required to report the percentage of toddlers with disabilities exiting Part C for whom the transition conference occurred at least 90 days, and at the discretion of all parties not more than nine months, prior to the toddler’s third birthday for toddlers potentially eligible for Part B preschool services. The LA’s or EIS program’s or provider’s failure to conduct the transition conference represents noncompliance with IDEA Part C requirements and denies the child and family a smooth transition. Such noncompliance must be reported and reflected in the State’s SPP/APR. Further, the State must take steps to ensure the EIS program or provider is correctly implementing the specific regulatory requirements and has corrected *each* individual case of child-specific noncompliance.

Q 7: What action should the LA take if the LEA does not respond to the LA's invitation to attend the transition conference or fails to attend the transition conference?

A 7: If the LA provides timely notification to the SEA and appropriate LEA, and the LEA does not respond or fails to attend the transition conference, the LA must still hold the transition conference and use the conference meeting to develop or revise the transition plan in the child's IFSP as further clarified below and in OSEP's 2023 Letter to Nix. It is important that the LA (or EIS program/EIS provider) make multiple attempts to contact the appropriate LEA and schedule the transition conference at a time that works for all parties, including the parent and LEA representative. If the LEA representative still does not respond, the LA must conduct the transition conference, and should:

- Document the method (phone call, email, text, etc.) used to coordinate with the LEA;
- Document the number of attempts to schedule the transition conference;
- Document the lack of response;
- Document the date the LA invitation to the transition conference was sent to the LEA;
- Explain, generally, to the family the Part B eligibility requirements and evaluation procedures, and provide information about the IDEA Part B program options, as appropriate, to inform parental decision-making; and
- Discuss the difference in scope between the two programs (Part B and Part C), including how Part C services and supports are child and family centered while Part B services are student-specific with parent involvement.

LAs should consider identifying specific roles and responsibilities as outlined in an intra- or interagency agreement to ensure a coordinated and collaborative approach with the SEA, including steps to be taken when practices are inconsistent with agreed upon procedures. The interagency agreement on early childhood transition that is required under 34 C.F.R. §§ 303.209(a)(3)(i)(A) and (B), should detail the actual procedures and practices that the EIS programs or providers will follow when attempting to coordinate the transition conference with the LEA. If there is not a statewide practice, local transition agreements should reflect specific procedures, including courses of action when the LEA does not respond to a transition conference invitation, such as elevation to LEA leaders or the SEA. The intention of the Part C notification to the SEA and LEA is to provide ample time for appropriate individualized planning to ensure a smooth and timely transition prior to the child's third birthday. The SEA and LEA should use the notification to plan for staffing and classroom needs, in addition to preparing for attendance and participation in the upcoming transition conference, as required under 34 C.F.R. § 300.124(c). At the transition conference, LEA personnel should explain to parents the Part B eligibility requirements and evaluation procedures, and provide information about Part B program options, as appropriate, to inform parental decision-

making. LEA and LA personnel are responsible for ensuring parents understand the difference in scope of the two programs, specifically how Part C services and supports are child and family centered while Part B services are student-specific with parent involvement. Additionally, to avoid duplication of effort, the LEA should consider all relevant Part C assessment information in the context of the evaluation and Part B eligibility determination process.

Q 8: What are Part C’s responsibilities if an infant or toddler with a disability did not receive timely transition services as part of the IFSP?

A 8: State LAs must monitor EIS programs/providers to ensure compliance with early childhood transition services and timelines as defined in 34 C.F.R. §§ 303.209 and 303.344(h). If the State LA makes a finding, the EIS programs/provider must ensure correction of this service provision requirement for both the individual child and for all children using updated data, consistent with OSEP’s 2023 General Supervision Guidance.

Transition Conference: Part B Responsibilities

Q 9: What are the LEA responsibilities related to the transition conference with the EIS program or provider and the family?

A 9: The LEA must participate in the transition planning conference arranged by the EIS program or provider, as failure to participate would be inconsistent with 34 C.F.R. § 300.124(c). The LEA’s failure to attend the transition conference when it was invited by the EIS program or provider makes it difficult for the LEA to meet all of its Part B responsibilities including ensuring that an IEP is developed and implemented by the child’s third birthday (if the child is eligible), as required by 34 C.F.R. § 300.124(b). If the wrong LEA representative was contacted, the LEAs must work with the EIS program or provider to ensure that the appropriate LEA is invited to, and participates in, the transition conference.

The purpose of the appropriate LEA participating in the transition conference is to ensure that toddlers exiting Part C and eligible for Part B “experience a smooth and effective transition.” 34 C.F.R. § 300.124(a). The LEA’s participation is critical to its ability to provide the parent with information about Part B preschool services, obtaining parental consent to an evaluation, and conduct eligibility determinations under Part B.

At the transition conference, LEA personnel should explain to the family Part B eligibility requirements and evaluation procedures and inform the family that they can request to invite their Part C service coordinator to the initial IEP meeting. LEA personnel should also provide information about Part B program options, as appropriate, to inform parents in their decision-making. Under 34 C.F.R. § 303.301(c), Part C personnel must provide parents with information about preschool services under Section

619 of the IDEA. Additionally, to avoid duplication of effort, the LEA should consider all relevant Part C assessment information in the context of the evaluation and Part B eligibility determination process. Together, with the Part C personnel and the family, the LEA should identify any gaps in assessment information needed to determine Part B eligibility and decide who will be responsible for completing or gathering additional information. Further, the LEA should identify next steps, roles, and responsibilities, that are to be documented in the transition plan.

If the LEA has not already provided the parent with procedural safeguards as required under 34 C.F.R. § 300.504, they should do so at the transition conference. Similarly, the LEA must request the parent's consent to conduct an initial evaluation to determine the child's eligibility for services under Part B if consent has not already been obtained.

Q 10: What are Part B's responsibilities if a child with a disability who was served under Part C did not have an IEP in place by the child's third birthday?

A 10: SEAs must monitor LEAs to ensure compliance with early childhood transition activities and timelines as defined in 34 C.F.R. § 300.124. LEA is responsible for that providing parents with the procedural safeguards notice, including the option to file a due process complaint under 34 C.F.R. § 300.507 or a State complaint under 34 C.F.R. § 300.153. If an eligible child did not have an IEP developed and implemented by their third birthday, the SEA must report this data under SPP/APR Part B Indicator 12 and correct each individual case of noncompliance (by completing the evaluation and/or developing and implementing the IEP, as applicable), unless the child is no longer within the jurisdiction of the LEA, consistent with the OSEP 2023 General Supervision Guidance (OSEP QA 23-01).¹⁸

Q 11: What are the LEA responsibilities if a parent provides consent to the evaluation and for the LA to share information with the LEA but does not provide approval for the LA to conduct the transition conference?

A 11: It is the Department's long-standing interpretation that the LA's transition notification constitutes an initial referral to Part B for the LEA. Even in cases where a transition conference is not conducted, the LEA must develop and implement the IEP by the third birthday of a child served under Part C and who transitions from Part C to Part B under 34 C.F.R. § 300.124(b). The LEA must still comply with its Part B child-find responsibilities to conduct a timely evaluation and make an eligibility determination. The inter or intra-agency agreement that is required under 34 C.F.R. §§ 303.209(a)(3)(i)(A) and (B) should clearly articulate the roles and responsibilities of both the Part C and

¹⁸ Dispute Resolution QA Final Memo-7-23-13.pdf

Part B representatives specific to this situation in order to ensure both agencies meet their respective requirements.

Q 12: Can the LEA utilize assessment and IFSP information provided by Part C and the parent to determine that the child is eligible for Part B?

A 12: Yes, but additional information may be necessary to complete an evaluation. An evaluation under Part B is defined at 34 C.F.R. § 300.15 as procedures used in accordance with 34 C.F.R. §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. Under 34 C.F.R. § 300.305(a), the IEP Team and other qualified professionals, as appropriate, must review existing evaluation data on the child, including evaluations and information provided by the parents of the child. On the basis of that review, and input from the child’s parents, the IEP Team and other qualified professionals, as appropriate, must identify what additional data, if any, is needed to determine, in the case of an initial evaluation, whether the child is a child with a disability, as defined in 34 C.F.R. § 300.8, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; and whether the child needs special education and related services.

If the IEP Team and other qualified professionals, as appropriate, identify any additional data that are needed, with the parent’s consent, the LEA must conduct the initial evaluation of a child suspected of having a disability under IDEA in accordance with the specified procedures and within the 60-day timeline or its State-established timeline consistent with 34 C.F.R. § 300.301. The LEA must administer such assessments and other evaluation measures as may be needed to produce the additional data. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed, the evaluation for that child is complete.

Referral from Part C, Eligibility, and Provision of Services

Q 13: What are the SEA and LEA responsibilities when a toddler with a disability¹⁹ under IDEA Part C is determined eligible for preschool services under Part B?

A 13: Under 34 C.F.R. § 300.124(b), an IEP is developed and implemented consistent with 34 C.F.R. § 300.101(b) by the child’s third birthday.

The LEA is responsible, if the parent requests it, for inviting the Part C service coordinator (or other Part C system representatives) to the initial IEP Team meeting (34 C.F.R. § 300.321(f)). Although the regulation does not address whether written notice

¹⁹ A child who has been determined eligible under Part C (and thus receiving service coordination services) is considered to have been “served under Part C” for this purpose.

to the service coordinator is required, States and LEAs are required to maintain records to show compliance with IDEA. Therefore, it is a good practice for the LEA to document the invitation, through actions such as keeping a record of the Part C staff receiving the invitation, the date the invitation was sent, and a copy of the invitation or notes from a phone call extending the invitation.

Under SPP/APR Part B Indicator 12, States are required to report the percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays. The SEA's and LEA's failure to have an IEP in place by the child's third birthday represents noncompliance with IDEA Part B requirements. Such noncompliance must be reflected in the State's SPP/APR. Further, the State must take steps to ensure the noncompliance is corrected for each individual child affected by the noncompliance and ensure regulatory requirements are met. Additionally, the LEA may be responsible for determining if compensatory services are warranted.

Q 14: What are LA and SEA responsibilities for children who are determined eligible for IDEA Part C less than 90 days from the child's third birthday or referred to IDEA Part C less than 45 days before the child third birthday?

A 14: Part C and Part B responsibilities vary, depending on the timeframe in which the child was referred to Part C.²⁰

Less than 90 days before the child's third birthday:

If the child is determined eligible Part C and the LA determines a child to be eligible for Part C early intervention services between 45 and 90 days prior to the toddler's third birthday,²¹ the LA must notify the LEA and SEA as soon as possible after the toddler's eligibility determination. 34 C.F.R. § 303.209(b)(1)(ii). The State must ensure that the LEA and SEA Notification is consistent with any opt-out policy that the State has adopted, which would permit a parent to object to disclosure of personally identifiable information. 34 C.F.R. § 303.209(b)(2). With the parent's consent, the LEA must conduct the initial evaluation of a child suspected of having a disability under IDEA in accordance with the 60-day timeline or its State-established timeline consistent with 34 C.F.R. § 300.301(c)(1), including any exceptions, even if that timeline expires after the child's third birthday.

If the child and family have been determined eligible for Part C services, the LA must discuss transition steps and services under 34 C.F.R. § 303.344(h). This meeting to

²⁰ Additional information about Part C and Part B responsibilities for children referred to Part C 135 days or less before a child's third birthday, including a timeline, is available at Early Childhood Technical Assistance Center. (2018) Federal IDEA Part C & Part B Transition Requirements for Late Referrals.

²¹ Additional information about Part C and Part B responsibilities for children referred to Part C 135 days or less before a child's third birthday, including a timeline, is available at Early Childhood Technical Assistance Center. (2018) Federal IDEA Part C & Part B Transition Requirements for Late Referrals.

develop the initial IFSP should include a discussion of the procedures to prepare the child for transition and changes in service delivery. The transition conference should include a review of the following:

- Part C procedural safeguards;
- Most recent assessment data and IFSP;
- Current services and the toddler’s therapeutic, medical, and social-emotional support needs; and
- Other program options and services available to be considered by the family.

The LA must exit the child from Part C services no later than the child’s third birthday unless the State has, OSEP-approved policies, for the extended Part C option under 34 C.F.R. § 303.211, to provide early intervention services to children beyond age three, and the parent consents to the continuation of Part C services.²² In that circumstance, the LA must revise the IFSP under the Part C extended IFSP option to, at a minimum, include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills. 34 C.F.R. § 303.211(b)(2).

Fewer than 45 days before the child’s third birthday:

If a child is referred to the LA and EIS provider fewer than 45 days before that toddler’s third birthday, the LA is not required, but may opt, to conduct the initial evaluation, assessment, or IFSP meeting. If that child may be eligible for preschool services or other services under IDEA Part B, the LA, with parental consent required under 34 C.F.R. § 303.414, must refer the toddler to the SEA and appropriate LEA. 34 C.F.R. § 303.209(b)(1)(iii). As noted above, the LEA must then, if it suspects the child of having a disability under Part B, obtain the parent’s consent to conduct the initial evaluation and ensure it is completed in accordance with the 60-day timeline or its State-established timeline consistent with 34 C.F.R. § 300.301(c)(1), including any exceptions, even if that timeline expires after the child’s third birthday.

Q 15: If a State has an exception to the 60-day timeline in State regulations allowing the parent and the LEA to agree in writing to extend the State’s evaluation timeline, can the LEA use this exception to extend development of the IEP past the child’s third birthday?

A 15: In general, children served under Part C and referred to Part B, including those referred to Part B less than 90 days before their third birthdays, must be evaluated under Part B, and if determined eligible under Part B, have an IEP developed and implemented by their third birthday. 34 C.F.R. § 300.124. The LEA cannot use a State exception to the State

²² In no case may a State provide Part C services beyond the age at which the child actually enters or is eligible under State law to enter kindergarten or elementary school in that State. 34 C.F.R. § 303.211(a)(3).

timeline to extend the development and implementation of the IEP past the child's third birthday. However, if a child has been served under Part C and referred to Part B, but was referred to Part C less than 90 days before the child's third birthday, the LEA must conduct the initial evaluation in accordance with the 60-day timeline or its State-established timeline, including any exceptions, even if that timeline expires after the child's third birthday 34 C.F.R. § 300.301(c). In these circumstances, OSEP encourages the LEA to make every effort to complete the evaluation, determine eligibility, and develop and implement an IEP by the child's third birthday or as soon after the third birthday as possible.

Q 16: What are the SEA and LEA responsibilities for children who turn three during the summer?

A 16: Under 34 C.F.R. §300.101, FAPE must be available to all children residing in the State between the ages of 3 and 21. Each State must ensure that (i) the obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and (ii) an IEP or an IFSP is in effect for the child by that date, in accordance with 34 C.F.R. § 300.323(b)(2). If a child's third birthday occurs during the summer, the child's IEP Team must determine the date when services under the IEP or IFSP will begin. LEAs must ensure that extended school year services²³ are available as necessary to provide FAPE, consistent with 34 C.F.R. § 300.106(a)(2).

As referenced in Footnote 11, a State may use funds it receives under IDEA Section 633 to offer continued early intervention services to a child who previously received services under Part C from age three until the beginning of the school year following the child's third birthday if the child is eligible for preschool services under IDEA section 619 and with parental consent (without regard to the procedures in IDEA Section 635(c)). This authority supplements the extended Part C option under IDEA Section 635(c) and 34 C.F.R. § 303.211 and provides States with flexibility to develop and submit the policy without having to submit to OSEP the procedures.

At the IEP Team's discretion, the IFSP may serve as the IEP for a child with a disability aged three through five (or at the discretion of the SEA, a two-year old child with a disability who will turn three during the school year) under the following conditions:

- (a) Using the IFSP as the IEP is consistent with State policy and agreed to by the agency and the child's parents;
- (b) The child's parents are provided with a detailed explanation of the differences between an IEP and an IFSP;

²³ The term "extended school year services" means special education and related services that (1) Are provided to a child with a disability—(i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.

- (c) Written informed consent is obtained from the parents if the parents choose an IFSP;
- (d) The IFSP contains the IFSP content, including the natural environments statement;
- (e) The IFSP includes an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs who are at least three years of age; and
- (f) The IFSP is developed in accordance with the IEP procedures under IDEA Part B. 34 C.F.R. § 300.323(b).

Extended Part C Option

Q 17: What are the SEA and LEA responsibilities to provide early intervention services to children beyond age three who have been served under the extended Part C option under 34 C.F.R. § 303.211?

A 17: If a State elects to provide early intervention services beyond age three, the State must have policies and procedures for the extended Part C option approved by and on file with OSEP. In order to provide early intervention services to children beyond age three, the EIS program or provider and LEA must ensure all transition requirements are met as required under 34 C.F.R. § 303.209. If the parent chooses to remain in Part C services under the extended Part C option, they can do so in accordance with State policy. Depending on the length of time in the extended Part C option under 34 C.F.R. § 303.211, the EIS program or provider and LEA may need to update assessment information and convene additional transition meeting(s) to support the child’s smooth transition into Part B services. These processes and procedures should be clearly articulated in State and/or local interagency agreements.

SPP/APR Data Reporting

Q 18: Who is responsible for defining "potentially eligible" children for the purposes of reporting in the SPP/APR Part C Indicator 8B and 8C?

A 18: The determination of whether a toddler with a disability under Part C is potentially eligible for Part B preschool services is made under IDEA Part C by that toddler’s IFSP Team as part of the transition process. While the LA is responsible for establishing the State policy in defining “potentially eligible for Part B,” because the LA, SEA and LEA all have transition responsibilities that hinge on this definition, the policy should reflect the collaboration between the LA and the SEA. Such collaboration would be part of an interagency agreement on early childhood transition that is required under 34 C.F.R. § 303.209(a)(3)(i)(A) when the SEA is not the LA.

Q 19: If a State has a birth-to-five service delivery and data system, can that data system meet the notification requirements under 34 C.F. R. § 303.209(b)(1)(i) and how is this reported under SPP/APR Part C Indicator 8B?

A 19: Yes, if a State has a birth-to-five service delivery system such that the EIS program or provider is also the SEA and LEA where the child resides, it is presumed that SEA and LEA notification has occurred. It is sufficient for purposes of reporting compliance under SPP/APR Part C Indicator 8B for the State to provide this explanation as a narrative in response to Indicator 8B. Otherwise, SEA and LEA notification must still occur and be reported under SPP/APR Part C Indicator 8B. The SEA is responsible for verifying that the LEA is using the notification information as intended to plan for upcoming transitions, including participation in the transition conference as requested by the EIS program or provider and family.

Q 20: Must the SEA and applicable LEA report children who are transitioning from Part C to Part B under both SPP/APR Part B Indicator 11 (Timely Evaluations) and Indicator 12 (Early Childhood Transition)?

A 20: Yes, the SEA must report under both SPP/APR Part B Indicator 11 and Indicator 12 children who are transitioning from Part C to Part B. SPP/APR Part B Indicator 11 measures the percent of children who were evaluated within 60 days of receiving parental consent for an initial evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. SPP/APR Part B Indicator 12 measures the percent of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

Q 21: When a child who is served under Part C and potentially eligible for Part B moves to another LEA after the notification to Part B, before an evaluation to determine eligibility for Part B was completed, should the child be excluded from SPP/APR Part B Indicator 12?

A 21: The child can be excluded from SPP/APR Indicator 12 data reporting only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

OSEP Policy Letters

- [Letter to NASDSE and ITCA on Transition FAQ and Related Resources \(2011\)](#)
- [OSEP Policy Letter to Jennifer Nix](#)

OSEP Guidance

- [Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA](#)
- [SPP/APR Measurement Table](#)
- [OSEP Checklist for Transition](#)
- [OSEP Part C Extension Option Checklist](#)
- [Return to School Roadmap: Provision of Early Intervention Services for Infants and Toddlers with Disabilities and their Families under Part C of the Individuals with Disabilities Act](#)
- [Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act](#)

Resources²⁴

- [Transition Practice Improvement Tools \(Using the DEC Recommended Practices\)](#)
- [Designing and Implementing Effective Early Childhood Transition Processes](#)
- [Early Childhood Recommended Practices Module \(rpms\) 2: Transition](#)
- [Parent Center Hub Transition](#)
- [Transition from Part C to Part B, Section 619 Services: Review of Existing Documentation for Children](#)
- [Federal IDEA Part C & Part B Transition Requirements for Late Referrals to IDEA Part C](#)
- [Part C to Part B Early Childhood Transition Timeline for SPP/APR Part C Indicators C-8, SPP/APR Part B Indicators B-11 and B-12 for Part C Children Determined Eligible at Least 90 Days Prior to Their 3rd Birthday](#)
- [Determining A Child's Eligibility for Preschool Special Education Services Remotely](#)
- [Data Linkages Between Part C and Part B – Transition Notification](#)
- [Module Describing Part C SPP/APR Reporting Requirements for Transition \(and Other Indicators\)](#)

²⁴ Opinions expressed in resources developed by OSEP funded TA Centers herein do not necessarily represent the Department's position or policy.