

Tips from the Special Education

Division: C to B Transition

May 2023

Question: If a school district receives a Part C to B referral from their local Early Support for Infants and Toddlers (ESIT) provider agency less than 90 days prior to the child's third birthday, is the district required to have an IEP developed and implemented by their third birthday?

Answer:

Yes, by the third birthday of a student found eligible for IDEA, Part B, transitioning from Part C, early intervention services, the school district must have developed and implemented an IEP consistent with WAC 391-172A-02000(1); WAC 392-172A-02080.

Additional Considerations

The State lead agency's (ESIT) transition notification to the OSPI and appropriate LEA must be treated as a referral under Part B. 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, WAC 392-172A-05015, WAC 392-172A-03000.

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 which 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.



Initial Evaluation: In general, IDEA requires that all children served in Part C and referred to Part B who are suspected of having a disability under Part B: (1) must be evaluated and their eligibility determined under Part B; and (2) if determined eligible, must have an IEP developed and implemented by their third birthday. 34 C.F.R. §§ 300.101(b), 300.124(b), 303.209, 392-172A-03005, and WAC 392-172A-02080. With the parent's consent, the LEA must conduct the initial Part B evaluation of a child suspected of having a disability under IDEA in accordance with the specified procedures and within thirty-five (35) school days.

Eligibility Determination: Upon completion of assessments and other evaluation measures, a group of qualified professionals and the child's parent determines 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 calendar days of a determination that the child needs special education and related services, and 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 35-school day evaluation timeline 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 good practice for the LEA to document how it invited the Part C service coordinator, the date the invitation was sent, and a copy of the invitation or notes from a phone call extending the invitation.

Other Part C to B Requirements and Timelines

The LEA must participate in the transition planning conference arranged by the early intervention service 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 to the transition conference by the EIS 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. (b).

The Part B LEA must work with the Part C EIS 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 the LEA being able to provide the parent with information about Part B preschool services, and start the process for consenting to an evaluation and conducting eligibility determinations under Part B.

In Conclusion

The State lead agency and the SEA are responsible for ensuring a smooth and effective transition for toddlers with disabilities exiting Part C who are potentially eligible for Part B preschool services. The State lead agency and SEA must have a transition agreement and policies and procedures to ensure effective coordination and communication at the State and local levels. By working together, along with parents, the State lead agency, EIS provider, SEA, and LEA can facilitate a smooth and effective transition for toddlers with disabilities from their participation in early intervention programs under Part C to Part B preschool programs.

Resources

- [Federal IDEA Part C & Part B Transition Requirements for Late Referrals](#)
- [ECSE-Summary-Key-WAC-Updates.pdf](#)
- [ECTA Center: Transition from Part C to Preschool](#)
- [POLICY LETTER: March 17, 2023, to Nix - Individuals with Disabilities Education Act](#)
- [ECTA Center: OSEP Resources on Transition](#)
- Chapter 392-172A- WAC [Provision of Special Education](#)
- [CEDARS Appendices \(www.k12.wa.us\)](#) AF and AG

