Early Childhood Transition Requirements and the New Part Regulations
What is the same? What is different?

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Regulatory Requirements

- **Part C Regulations** **September 28, 2011**
  34 CFR Part 303 Early Intervention Program for Infants and Toddlers with Disabilities

- **IDEA 2004** ***December 3, 2004***
  20 USC 1400

- **Part B Regulations** ***August 14, 2006***
  34 CFR Parts 300 and 301 Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities

- **Unique State Rule and Policy**

OSEP Policy Letters and FAQs

- **Policy Letter to Elder** *February 11, 2004*
- **Policy Letter to Hirsch** *August 9, 2005*
- **OSEP Early Childhood Transition FAQs – SPP/APR Indicators C-8 and B-12** *December 12, 2009*
- **Policy Letter to ITCA and NASDSE** *February 9, 2011*

Available at: http://www.nectac.org/idea/clarfctnltrs.asp

Indicator C8 Requirements

Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:

- A. ***IFSPs with transition steps and services***;
- B. ***Notification to SEA & LEA***, if child **potentially eligible** for Part B; and
- C. ***Transition conference***, if child **potentially eligible** for Part B.

Indicator B12 - IEP by Age Three

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 birthday.

Indicator B12 Measurement Requirements

a. # of children who have been served in Part C and *referred* to Part B for eligibility determination

b. # of those referred determined to be *NOT eligible* and whose eligibility was determined *prior* to their third birthdays

c. # of those found eligible *who have an IEP* developed and implemented by their third birthdays.

d. # of children for whom *parent refusal* to provide consent caused delays in evaluation or initial services

e. # of children who were referred to Part C less than 90 days before their third birthday. (NEW)

Agreements (§303.209(A)(B))

- If the Lead Agency is not the SEA = Interagency Agreement
- If the Lead Agency is the SEA= **Intra-agency Agreement**
- Both agreements **must address** how the Lead Agency and SEA will meet the **requirements of 303.209 (b) through (f)**

Transition Notification (Referral)
(§303.209(b)(1))

Prior to a toddler exiting the Part C early intervention program, if that toddler is **potentially eligible** for services under Part B of the IDEA, the lead agency must **notify the SEA** and the LEA where the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B. (§303.209(b)(1))

Transition Notification (Referral)

- SPP and APR Indicator C8B
- Only reported in C8B for children who are considered potentially eligible
- **Only** occurs for children who are **potentially eligible for Part B** instead of for all children
- Notification must occur **no fewer than 90 days** before the toddler's third birthday

Transition Notification (Referral)
(§303.209(b)(1))

Status of Toddler Who is Potentially Eligible for Part B	Lead Agency Notifies LEA / SEA
Exiting Part C by age three (§303.209(b)(1)(i))	At least 90 days prior to toddler's third birthday.
Determined eligible for Part C 45 – 90 days prior to turning age three (§303.209(b)(1)(ii))	As soon as possible after the eligibility determination.
Referred to lead agency less than 45 days prior to turning age three (§303.209(b)(1)(iii))	No evaluation / assessment / IFSP required, but MUST notify the SEA & LEA if the child may be eligible for Part B (with parental consent, if applicable, under §303.414).

Transition Notification (Referral)

Content of the **SEA** and LEA notification must include information to assist Part B in their child find responsibilities

<u>Must include:</u>

- Child's name
- Child's date of birth
- Parent contact information

<u>May additionally include:</u>

- Service Coordinator's name and contact information
- Language(s) spoken by the child and family

Transition Notification (Referral)

- May be individually determined by IFSP team based on states' definition of potentially eligible
- Lead Agency responsibility to establish policy to define potentially eligible
- Considered an initial referral to Part B
- Part B provides procedural safeguards to parents and attends transition conference with parental approval

Transition Notification (Referral)

- States may create a policy allowing families the opportunity to "opt-out" of this disclosure of personally identifiable information.
- If state has an approved "opt out" policy, then families are given a period of time to object to the transmission of personal information.

(34CFR 300.504(a)(1)

Transition Plan (§303.209(d))

- IDEA and APR requirement (C8A)
- **IFSP includes a transition plan** for **all** infants and toddlers with a disability exiting from Part C
- Reviews program options for toddler from third birthday through the remainder of school year
- Families included in transition plan development
- **Developed not fewer than 90 days** and **not more than 9 months before third birthday**

Transition Plan (§303.209(d))

- Service coordination services includes facilitating the development of a transition plan. (§303.34(b)(10))
- **Developed** at the transition conference
- Transition conference and IFSP meeting **may be combined**
- Must include **steps to exit and services** identified as needed to support smooth transition (§303.209(d)(3)) and consistent with (§303.344(h))

Procedures for Transition Plans
§303.209(d)(3)

Steps to exit from Part C

- Child find information is transmitted to the LEA or other relevant agency.
- Transmission of additional information, such as the most recent evaluation, assessments and IFSP (with parental consent).
- Will vary depending on the program to which the child is transitioning.

Services identified as needed

- Support transition of the child.
- Identified by the IFSP team.
- Needed by the toddler and his or her family.
- Discussions with and training of parents regarding future placements and other matters related to transition of their child (inc. Head Start or other preschool options).

Transition Conference

- For a child exiting Part C and **potentially eligible** for Part B services, the transition conference must be held, with family approval, at least 90 days and **not more than 9 months prior** to the toddler's third birthday.

- **Required participants** include the lead agency, the LEA and the family. (§303.209(c)(1))

Transition Conference

- For a child exiting Part C and <u>not potentially eligible</u> for Part B, the lead agency (with family approval) makes <u>reasonable efforts to convene</u> the transition conference.

- Required participants include the lead agency, providers of other appropriate services the toddler may receive and the family. (§303.209(c)(2))

Transition Conference

- Part C is required to invite the LEA, unless the parent does not approve of convening the transition conference.
- LEA is required to participate in the transition conference (IDEA 612(a)(9) & Part B Regulations 300.124(c))
- LEA may participate via phone if agreeable to the parent

Transition Conference

What if the LEA is invited but does not participate?

- Part C must still hold the conference at least 90 days and up to nine months prior to the child's third birthday
- Develop or revise the transition plan
- Must provide parents with information about Part B preschool services consistent with IDEA section 635(a)(6)

What about late referrals to Part C or Part B that might affect timeline requirements?

Late Referral to Part C – Part C Responsibilities

Children referred ≤ 45 days from 3rd Bday	**Children referred & eligible 45 - 90 days from 3rd Bday**
May, but **not** required, to:	**Must:**
Conduct initial eval/assess	Conduct initial eval/assess
Conduct initial IFSP meeting	Conduct initial IFSP meeting
Develop Transition Plan	Develop Transition Plan
Provide SEA & LEA Notification	Provide SEA & LEA Notification
Must refer to Part B if the toddler may be eligible and parent provides consent	
Do **not** report in C8-A or C8-C	Report in C8-A and C8-B
May conduct Transition Conference, but **NOT** required	

Late Referral to Part C – Part B Responsibilities

For children referred to Part C ≤ 90 days from child's 3rd birthday and "served" by Part C, Part B:

- Conducts initial evaluation within 60 days or other state timelines (even if timeline expires after 3rd birthday)
- Conducts IEP Meeting (30 days from eligibility determination)
- Reports in B-11 and in B-12e (subtract B-12e from B12-a in FFY 2010 APR due 2/1/12)

Late Referrals from Part C to B - Part B Responsibilities

Defined as:

Children referred to Part C ≥ 90 days

(and served by Part C)

<u>BUT</u> referred to Part B ≤ 90 days from child's 3rd birthday

Late Referrals from Part C to B - Part B Responsibilities

- Conduct initial evaluation
- Develop IEP by 3rd birthday
- Report all in B-12a but if eligible for Part B and no IEP by 3rd birthday:
  - Do **NOT** report in 12b, c, d, or e (unless parent refusal to consent for evaluation caused delay)
  - Indicate reason for delay and range of days beyond 3rd birthday

Part B Initial Evaluation & Eligibility Determination

- IEP team and other qualified individuals must review existing evaluation data, including evaluations and information provided by parents
- Based on that review and input by family, team determines what additional data are needed to determine if child is child with disability

  (Part B Regulations 300.305)
- Part C assessments may be used to determine child eligibility (Letter to Hirsch)

When Must IEPs Be In Effect

- Conducted within 30 days of eligibility determination
- IEP Team <u>must consider IFSP</u> content
- Special education and related services as soon as possible after IEP development

(Part B Regulations 300.323)

IEP Team & Parent Participation

- An invitation **must, at the request of parents** be sent to Part C service coordinator or other representative of Part C System (Part B Regulations 300.321(f))
- Must **inform** parent of this provision

  (Part B regulations 300.322(a)(2)(b)(ii))
- Conditions for conducting a meeting without parent in attendance (Part B Regulation 300.322 (a)(2)(B)(ii)(d))

FAPE Beginning at Age Three

- Obligation to make FAPE available to each eligible child no later than the child's third birthday and an IEP is in effect
- IEP is in effect and includes the projected date for beginning services
- Third birthday occurs in summer, IEP team determines date when services begin

(Part B Regulation 300.301(b))

IEP Developed and Implemented by 3rd Birthday for Children Referred by Part C

Children **NOT** included in B-12 are:

- Those who have not been evaluated or determined eligible for Part C and have not received any Part C services
- These children should be included in B-11

Extended School Year (ESY)

- Each public agency must ensure that ESY services are available as necessary to provide FAPE.
  - Determined by IEP Team
  - Individualized basis in accordance with the IEP requirements
  - At no cost to the family
  - May not limit to specific disability categories
  - May not unilaterally limit type, duration or amount of those services

Extended School Year and FAPE

From the Analysis of Comments:

Section 300.101 (a) clearly states that FAPE must be available to all children aged 3 through 21.....

The right of an individual child with disabilities to ESY Services is based on a child's entitlement to FAPE.

(p. 46582)

IEP Developed and Implemented by 3rd Birthday for Children Referred by Part C

Indicator B-12 = Number of children referred by Part C, found eligible for Part B and have an IEP developed by age three

"Referral to Part B" for reporting in B-12a occurs when LEA has been notified that child served in Part C is **potentially eligible** for services under Part B

IEP Developed and Implemented by 3rd Birthday for Children Referred by Part C

Children reported in B-12a include those:

- For whom LEA has received LEA Notification prior to child's third birthday that child will shortly reach the age of eligibility for Part B services **AND** that child is potentially eligible for services under Part B
- For whom the LEA has received invitation to the transition conference
- Served in Part C and referred to Part B even if child was referred to Part C ≤ 90 days before child's 3rd birthday

IEP Developed and Implemented by 3rd Birthday for Children Referred by Part C

B-12 reporting for "late referrals to Part C" (referred to Part C ≤ 90 days before 3rd Birthday):

- These children are subtracted out of B-12a per measurement B-12e when calculating percentage of children who have an IEP developed and implemented by their 3rd birthdays even if:
  - No transition conference held at least 90 days before the third birthday
  - Part C completed an evaluation but IFSP was not developed

Existing Early Childhood Transition Training and TA Resources

- **The National Early Childhood Transition Initiative Website**

http://www.nectac.org/topics/transition/ectransitionta.asp

- **OSEP Regulatory Training November 2011**

http://osep-part-c.tadnet.org/materials

Additional Transition Resources

- US Department of Education – Building the IDEA Legacy http://idea.ed.gov/
- NECTAC Part C to Part B Transition Resource Collection http://www.nectac.org/topics/transition/transition.asp
- ITCA Side by Side http://www.dec-sped.org/uploads/docs/What's%20New/Part%20C%20Side%20By%20Side/FinishedPartCRegs.pdf
- National Early Childhood Transition Center http://www.hdi.uky.edu/NECTC/Home.aspx

Transition Tool Kit - NECTC

http://www.hdi.uky.edu/nectc/NECTC/practicesearch.aspx