IDEA Early Childhood Transition Requirements

Updates, Implications and Resources

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Presentation for the

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Session Goals and Organization

- Provide an overview for the basis of legal requirements and federal policy
- Provide an overview of the early childhood transition requirements within the context of the SPP/APR requirements
- Highlight key provisions addressed in the 2009 OSEP FAQ
- Share resources on quality practices and legal requirements

2

Regulatory Requirements

- **Part C Regulations** ***July 1, 1999***
  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**

3

OSEP Policy Letters and FAQ

- **Policy Letter to Elder** *February 11, 2004*
  (applicable to current Part C regulations)
- **Policy Letter to Hirsch**
- **OSEP Early Childhood Transition FAQs – SPP/APR Indicators C-8 and B-12** *December 12, 2009*
- **Policy Letter to ITCA and NASDSE**

4

Context for Accountability

- **Government Performance and Results Act (GPRA)** of 1993, driving accountability in all federal programs by focusing on performance measurement.
  http://www.whitehouse.gov/omb/mgmt-gpra_gplaw2m/
- Programs funded by the Federal government evaluated by **Program Assessment and Rating Tool (PART)** to measure performance.
  http://www.whitehouse.gov/omb/part/2006_part_guidance.pdf

5

IDEA 2004 & SPP/APR Requirements

- IDEA 2004 designated the use of a State Performance Plan (SPP) requiring annual reporting on performance and compliance targets for six years.
- Compliance Indicators for Part C and Part B (C8, B11 and B12)

6

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 LEA***, if child **potentially eligible** for Part B; and
- C. ***Transition conference***, if child **potentially eligible** for Part B.

7

C8 Measurement Requirements

C-8C Transition Conference

Exceptional Family Circumstances

- States are not required to include in their calculation the number of children delayed due to exceptional family circumstances.
  - If included in report, put in numerator and denominator.
  - Report on the number of delays separately in discussion
- *Do not include*, children whose family *did not provide approval* to conduct the transition conference.

8

Indicator B11 Requirements Initial Evaluation

Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or other state time frame.

Exception to Timeframe for Initial Evaluation (300.301(d))

- Parent repeatedly fails or refuses to produce child for evaluation
- Child enrolls in another school after timeframe begins but before eligibility determination

9

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.

10

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)

11

Overview and Purpose of the Synthesis Document

- Contains key information from FAQ and is companion document to FAQ
- Organized by implementation of steps in sequence of transition requirements
- Correlates with pertinent APR indicators for Part C (C-8) and Part B (B-11 and B-12)

12

"Syntheses of Key Points from the OSEP Early Childhood Transition FAQ" (2010)

(SPP/APR Indicators C-8, B-11 and B-12)

13

SYNTHESIS OF KEY POINTS FROM THE OSEP EARLY CHILDHOOD TRANSITION FAQ

(SPP/APR INDICATORS C-8, B-11 AND B-12)

July 2010

This document is a synthesis of the key points provided in the *OSEP Early Childhood Transition FAQs: SPP/APR indicators C-8 and B-12 released* on December 1, 2009. It was developed to assist states with the implementation of effective transition policies and practices. The *OSEP Early Childhood Transition FAQs: SPP/APR indicators C-8 and B-12* can be accessed at: http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/798

A STATE MUST USE POLICIES AND PROCEDURES TO ENSURE A SMOOTH TRANSITION FOR TODDLERS RECEIVING EARLY INTERVENTION SERVICES UNDER PART C OF IDEA TO PRESCHOOL, OTHER APPROPRIATE SERVICES, OR EXITING THE PROGRAM. (IDEA SECTION 637(a)(9)(A))

TRANSITION PLAN (C-8A)

- A transition plan, that includes steps to exit from the program and appropriate services, is required to be developed after the toddler turns two and before the child's 3rd birthday and is a part of the IFSP.
- The IFSP team, which includes the parent, is responsible for developing the transition plan.
- The lead agency may develop the transition plan in the IFSP at the transition conference.
- The team must review program options for the toddler with a disability who is potentially eligible for Part B for the period from that child's third birthday through the remainder of the school year.

LEA NOTIFICATION FROM PART C (C-8B)

General Information about LEA Notification:

- Content of the LEA Notification must include information to assist Part B in their child find responsibilities:
  - Must include:
    - Child's name.
    - Child's date of birth.
    - Parent contact information (including names, addresses and telephone numbers).
  - May additionally include:
    - Service coordinator's name and contact information.
    - The language(s) spoken by the child and family.
- The LEA Notification must be provided to the LEA where the toddler with a disability resides.
- The State determines the method to be used for LEA Notification (e.g, electronically or hard copy directly to LEA or to SEA to be forwarded to LEA).

Organization of Key Point Synthesis

- Transition Plan
- Local Education Agency (LEA) Notification from Part C
- Transition Conference for Children Potentially Eligible under Part B
- Late Referral to Part C
- Late Referrals from Part C to Part B
- Part B Initial Evaluation and Eligibility Determination
- IEP Developed and Implemented by 3rd Birthday for Children Referred by Part C

15

Transition Plan

- Developed after child is age two but before child's 3rd birthday; *Ideally can begin upon entry into the program and may be ongoing* (IDEA 637(a)(9)(C))
- Must include steps and services to support smooth transition and is part of IFSP (IDEA 636(a)(3) & (d)(8))
- May be developed or updated at Transition Conference
- Families included in transition plan; IFSP team includes the parent(s) (IDEA 637(a)(9)(A)(i))
- IDEA and APR requirement (C8A)

16

LEA Notification

Two Steps in LEA Notification

- **Step 1**: Notification of **all** children who will "shortly reach age of eligibility"
- **Step 2**: Notification of children deemed "potentially eligible" for Part B

17

LEA Notification – Step 1

Step 1: Notification of **all** children who will "shortly reach age of eligibility"

- NOT reported in C8-B
- State determines method of communication
- NOT considered a referral
- No action by Part B
- Part C regulatory requirement and Elder letter clarification (IDEA 637(a)(9)(A)(ii)(I))

18

Step 1 Notification continued

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

Must include:

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

May additionally include:

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

19

State Opt-Out Policy

Parents may choose to opt out of Step 1 Notification if the state has an OSEP approved opt out policy

- Parents receive notice of the intended disclosure
- Allow a specified time to object and prevent notification

20

LEA Notification – Step 2

Step 2: Notification of children deemed "potentially eligible" for Part B

- Part C must ensure timely conferences for Part C children who may be eligible for Part B services (IDEA 637(a)(9)(a)(ii)(II))
- "Potentially eligible for Part B" has same meaning as "Children who may be eligible for Part B" (IDEA 637(a)(9)(A)(ii)(II))
- IDEA and APR Requirement (C8B and C8C)

21

LEA Notification – Step 2

- Children individually determined by IFSP team based on states' definition of potentially eligible
- Lead Agency responsibility to establish policy
- Reported in C8-B
- Considered an initial referral to Part B
- Part B provides procedural safeguards to parents and attends transition conference

(34CFR 300.504(a)(1)

22

LEA Notification - Implementation

Steps 1 and 2 can be separate or combined:

- List of children (if combined, potentially eligible children can be indicated)
- Individual children (invitation to transition conference can serve as notification)

23

Opt-out- Consent – Approval

Transition Conference requires **"approval"** – affirmative verbal response (IDEA 637 (a)(9)(A)(ii)(II))

"Consent "to disclose personally identifiable information…must be in writing…to an LEA…not a participating agency under Part C (Part C Regulations 303.402; 303.460; 303.401(a))

"Opt-out" shifts the burden to parent to object and assumes approval

24

Transition Conference

- Timely transition conference (IDEA 637(a)(9)(A)(ii)(II) and (III)
- Part C is required to invite the LEA with parent approval
- If parent does not approve of convening transition conference, LEA notification must be provided (C8B),unless OSEP-approved opt-out policy in place
- 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

25

Transition Conference

What if the LEA 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)

26

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

27

Federal IDEA Part C & Part B Transition Requirements for

Late Referrals to Part C (<135 days of child's 3rd birthday)

Introduction and Explanation to the Chart

The attached timeline chart was developed as a TA document by the OSEP TA Priority Team on Early Childhood Transition in response to questions being raised by states about the IDEA early childhood transition requirements and how they might best fulfill them.

When children are referred to Part C as they are approaching age 3, there are different program and reporting requirements for the IDEA Part C and Part B Programs depending on the age of the child being referred. The requirements for these "late referrals" vary for three distinct ranges of days before the child's third birthday: less than 45 days, between 46 and 90 days, and 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.

The attached chart depicts the requirements in a way intended to illustrate the differences in the roles and responsibilities of the Parts C and B programs within a time period, and within each program across the three time periods. The chart's information is based on the IDEA 2004 Statute for Part C, the Federal Regulations for IDEA Part B that relate to transition and child find, and the OSEP FAQ on SPP/APR indicators C-8 and B-12 released 12/1/09.

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. 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 to ensure that both programs can meet the required timelines.

The IDEA statute and applicable regulations can be accessed at:

- IDEA 2004 Statute (P.L. 108-446) for Parts B and C
  http://idea.ed.gov/explore/view/p/%2Croot%2Cstatute%2CI%2C
- IDEA Federal Regulations at 34 CFR Parts 300 and 303
  http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C (Part B)
  http://nectac.org/idea/303regs.asp (Part C) as modified by 20 U.S.C. 1401 through 1444.

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Developed by Diefendorf, M. & Lucas, A., for the Early Childhood Transition TA Priority Team
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regional resource center program

Late Referral Timeline

Organized by:

- Part C and Part B Responsibilities (both include the same collaborative activities)
- The time period the child is referred to Part C
  - ≥ 90 days prior to child's 3rd birthday
  - Between 45 and 90 days prior to child's 3rd birthday
  - ≤ 45 days prior to child's 3rd birthday

29

Late Referral to Part C – Part C Responsibilities

Children referred ≤ 45 days from 3rd Bday	Children referred 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 LEA Notification	Provide LEA Notification (Step 1 and 2)
Must refer to Part B with parent consent or assist family in initiating contact	
Do **not** report in C8-A or C8-B	Report in C8-A and C8-B
May conduct Transition Conference, but **NOT** required	

30

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 2009 APR due 2/1/11)

31

Late Referrals from Part C to B - Part B Responsibilities

Defined as:

Children referred to Part C ≥ 90 days
(and served by Part C)
BUT referred to Part B ≤ 90 days from child's 3rd birthday

32

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

33

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)

34

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))

35

When Must IEPs Be In Effect

- Conducted within 30 days of eligibility determination
- IEP Team must consider IFSP content (Part B
- Special education and related services as soon as possible after IEP development

(Part B Regulations 300.323)

36

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))

37

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

38

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

39

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

40

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

41

Existing Early Childhood Transition Training and TA Resources

The National Early Childhood Transition Initiative Website

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

42

Additional Transition Resources

- SPP/APR Calendar – Resources Organized by Indicator
  http://spp-apr-calendar.rrfcnetwork.org/byindicator.html
- NECTAC Part C to Part B Transition Resource Collection
  http://www.nectac.org/topics/transition/transition.asp
- National Early Childhood Transition Center
  http://www.hdi.uky.edu/NECTC/Home.aspx

43