

Indicator 12: Part C to Part B Transition Technical Assistance Document

Introduction to Indicator 12

The *Individuals with Disabilities Education Act* (IDEA) governs how states and public agencies provide early intervention, special education and related services to children. Part C of IDEA provides the regulations for early intervention to infants and toddlers from birth through age three. Part B of IDEA provides the regulations for special education and related services for school-aged children with disabilities (ages three-22 years).

The transition from Part C to Part B services necessitates data collection because the U.S. Office of Special Education Programs (OSEP) requires states to report *the percentage of children referred by Part C prior to age three, who are found eligible for Part B, and who have an Individualized Education Program (IEP) developed and implemented by the beginning of the school year if they turn age two by September 30 of that school year or by their third birthday.* This data provides the necessary information for outcome Indicator 12.

States are required to submit a performance plan which includes baseline data, targets, and improvement activities for all data indicators, including Indicator 12. State data is reported in the State Performance Plan (SPP). Reports on the state-level data and progress toward meeting the state targets are described in the Annual Performance Report (APR). Indicator 12 is a compliance indicator, and therefore has a 100 percent compliance target. The OSEP's expectation is that states will meet the transition timeline with **100 percent** of all children transitioning from Part C to Part B.

Key Components of the Transition from Part C to Part B

Agencies

The Infant and Toddler Connection of Virginia (Part C of IDEA) is managed by the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Early Childhood Special Education (Part B of IDEA) is managed by the Virginia Department of Education (VDOE). Both agencies have responsibilities for ensuring the smooth and timely transition of children. There are regulations governing both Part C and Part B of IDEA. (Regulations for Part C can be found on the Infant and Toddler Connection of Virginia website at <http://infantva.org/>.)

The *Virginia Interagency Memorandum of Agreement among the Agencies Involved in Implementation of Part C of IDEA* documents the understandings and commitments of participating agencies in the Virginia statutory requirements related to Part C. The *Virginia Interagency Memorandum of Agreement* outlines the transition agreement between the DBHDS and VDOE. The Transition Agreement section of this document can be found on the DOE website at http://www.doe.virginia.gov/special_ed/early_childhood/transition/index.shtml.

The Memorandum of Agreement must be upheld by the local Infant and Toddler Connection (ITC) and Local Education Agencies (LEA) as they work to transition children from Part C to Part B. Since local ITCs and LEAs must work together to develop understandings and procedures to ensure smooth and timely transitions, local interagency agreements that specify roles and responsibilities for accomplishing the transition planning and activities required under Part C and Part B of IDEA are required. It is critical for ITCs and LEAs to be aware of these local interagency agreements and to consider the effectiveness of such agreements and modify as needed.

Child's Age

In Virginia, children who reach the age of two on or before September 30 of any given year and who meet Part B eligibility requirements as defined in the *Code of Virginia* and in accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* are eligible to receive special education and related services through their local school divisions. Notwithstanding the availability of a free appropriate public education (FAPE) at age two, a child remains eligible to receive Part C services until his/her third birthday. Therefore, if a child turns two on or before September 30, parents may choose to have their child remain in Part C or transition to Part B. The LEA can determine whether to serve children who turn two after September 30 for that school year. The terminology "rolling enrollment" pertains to those children turning two after September 30.

Children eligible for Part B preschool services are to transition from Part C to B by their third birthday. Admission is to take place throughout the school year for these children.

Children who are two on or before September 30 and who meet eligibility requirements are expected to have the eligibility and IEP process completed in order for the child to start the first day of the school year. Children in Part C who are eligible for Part B and whose parents elect for them to continue in Part C until they are three are expected to have an IEP in place so the child can start Part B by their third birthday.

According to the *Virginia Interagency Memorandum of Agreement Among the Agencies Involved in Implementation of Part C of IDEA*, DBHDS is to maintain financial responsibility and pay for supports and services listed on the Individualized Family Service Plan (IFSP) until the child's third birthday or the earlier date on which the child begins Part B services (e.g., the beginning of the school year in which the child is two years old by September 30), to the extent those services are not otherwise paid for by public or private insurance, family fees or other third party payor sources. Additionally, DBHDS remains financially responsible for two year olds who choose not to transition to Part B until their third birthday or who initially transition to Part B but choose to return to Part C prior to their third birthday. The VDOE is to accept financial responsibility and pay for all special education and related services, as listed on an IEP, to a Part B eligible child beginning on the child's third birthday or the earlier date on which the child is eligible for and the parent chooses to begin Part B services (e.g., the beginning of the school year in which the child is two years old by September 30 or some other point between the beginning of the school year and the child's third birthday if the local school division offers rolling admission).

Part B Eligibility

Any child receiving Part C services and suspected of having a disability may be referred to Part B. This is done by making a referral to the school division where the child resides. The eligibility requirements for Part C and Part B are different and can be found in the respective regulations. For a child to be eligible for Part B services, he or she is to be evaluated in accordance with the provisions of the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* and determined to have an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability (referred to in this part as “emotional disability”), an orthopedic impairment, autism, traumatic brain injury, any other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities who, by reason thereof, needs special education and related services. This also includes developmental delay if the local educational agency recognizes this category as a disability.

Steps of a Smooth and Timely Transition

Transition Conference

A Transition Conference is required, with parent consent, if the child is potentially eligible for Part B preschool services. The Transition Conference is coordinated by the local ITC and:

- Must be at least 90 days and can be up to nine months before the child’s anticipated date of transition;
- Must meet the requirements of an Individualized Family Service Plan (IFSP) meeting;
- Must include the family;
- Must include a Part C representative;
- Must include an LEA representative who is knowledgeable about services available in Early Childhood Special Education (ECSE) programs (any staff familiar with the ECSE program that can explain the program to the family); and
- May be combined with a meeting to develop the transition plan.

Initial Referrals

In the case of a child who is suspected of having a disability and will soon reach the age of eligibility for preschool services under Part B, with parent consent, Part C is to provide notification to the LEA for the area in which a child resides. This is known as a referral and is done by transmitting each child’s name, parent’s name(s), address, phone number and birth date to the child’s LEA of residence. The referral is to be completed not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. Notification of children who will be age eligible for the coming school year is to be provided by April 1 to the LEA of the child’s residence unless there is a local interagency agreement specifying otherwise. A notification will not be completed if a parent disagrees in accordance with the opt-out procedures specified in the *Infant & Toddler Connection of Virginia Practice Manual*.

The ITC and LEA must work together to ensure a smooth and timely transition. Therefore, the following must be determined at the local level:

- The person who sends the notification/referral from Part C;
- The person who receives the notification/referral at the LEA;
- How the information will be sent to the LEA;
- Whether the referral information will be sent individually or in batches; and
- The date by which referral information will be sent if earlier from those outlined in the *Virginia Interagency Memorandum of Agreement*.

By mutual agreement between the ITC and the LEA, notification of children who will be age eligible for the coming school year can occur at once or be spread out over time provided regulatory requirements are met. Local Education Agencies are to accept referrals any time of the year. Summer months and breaks are considered the same as other months of the school year.

The referral requires only the child's name, birthdate, parent(s) name and contact information. When the LEA special education designee receives the child's name and information, it is considered a referral and the regulatory timeline begins. The referral may also include the service coordinator's name and contact information and the language(s) spoken by the child and family. Assessment information and the IFSP are not required for it to be a referral.

Notification of the Referral to the Virginia Department of Education

Part C is to also notify VDOE of referrals made to LEAs. Notification to the VDOE will occur by entry or transfer of the notification information into a secure single sign-on web server hosted by VDOE.

Late Referral to Part C

If a child is referred to Part C between 45 and 90 days prior to the child being eligible to receive services from Part B, with parental permission, the LEA and Part C may conduct the eligibility evaluations together. For children determined eligible for Part C (and the child is potentially eligible for Part B) notification to the LEA and DOE must occur as soon as possible after the determination of eligibility.

For a child referred to Part C fewer than 45 days prior to the child's third birthday, with parental consent, the local early intervention system refers the child to the LEA and DOE. This is not considered notification from Part C. Part C is not required to conduct an evaluation, assessment or develop an initial IFSP or transition plan for such children. Part C may directly refer or have the parents refer the child to the LEA.

For children referred to Part C fewer than 45 days prior to the child's being age eligible at age two, to receive services from Part B, the local early intervention system is to directly refer or have the parent refer the child to the LEA. This may occur instead of or in addition to

proceeding with the referral to Part C. If the referral to Part B is made by the parent or is made prior to determining eligibility under Part C, then this is not considered a notification from Part C.

Part B Eligibility

For all children suspected of having a disability, LEAs are to follow the regulations outlined in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (found at http://www.doe.virginia.gov/special_ed/regulations/state/index.shtml) for determining whether a child has a disability and is eligible for special education and related services.

A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child. No single measure is to be used as the sole criterion. Tools and strategies that provide information regarding the child's involvement and progress in appropriate activities:

- Must provide information about the child's physical condition, social or cultural background, and adaptive behavior;
- Must include information provided by the parent(s);
- Must include an observation in the child's learning environment (for the child less than school age, this is to be an environment appropriate for a child of that age that will provide authentic information regarding the child's development); and
- May include evaluation information from the Part C program as well as information from the IFSP.

Prior written notice of the eligibility decision is provided to the parents. This notice is required when a child is eligible, and when a child is not eligible for Part B services. The notice must contain the required elements outlined in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* including the parent(s) right to appeal the decision through the due process hearing procedures.

Timelines

Upon receipt of the referral from Part C, the LEA Special Education Administrator is to begin the evaluation process. Part B eligibility must be determined within 65 business days of receipt of the referral. When the referral is received, the administrator shall within three business days:

- Initiate the evaluation process;
- Require that the school-based team review and respond to the request (the team is to meet within 10 business days following receipt of referral); or
- Deny the request and provide prior written notice to the parent(s), including the parent's right to appeal the decision through the due process hearing procedures.

The 65 day timeline is the same during the entire year including the summer. Business days are Monday to Friday, except for state and federal holidays. Completing evaluations of children

referred in the summer in less than 65 days could result in the child starting services on the first day of school.

Team Membership

Membership at eligibility/IEP meetings includes parent(s), a regular education teacher, a special education teacher, an individual who can interpret the instructional implications of evaluations, and a representative of the LEA. Parents are to be informed that the Part C Service Coordinator or other representative may be invited to the Part B Eligibility and IEP meetings. Part C personnel are to be invited to the meeting(s) if the parent requests. The regulations do not address whether written notice to Part C is required. However, because States and LEAs are required to maintain records to show compliance with IDEA, it is good practice for the LEA to keep a record of the Part C person, or persons receiving the invitation, the date the invitation was sent, and a copy of the invitation or notes from a phone call extending the invitation.

The LEA is to take steps to ensure that one or both of the parents of the child with a disability are present at each IEP meeting or are afforded the opportunity to participate. If after multiple attempts, neither parent can attend, the LEA is to use other methods to ensure parent participation, including individual or conference telephone calls and audio conferences. Every effort is to be taken to ensure that the parent(s) understand the purpose and the proceedings of the IEP meeting.

Individualized Education Program (IEP)

If the child is found eligible for special education and related services, an IEP is to be developed within 30 calendar days from eligibility date and implemented as soon as possible.

The nature and amount of special education and related services is determined by the child's IEP team. The IEP team is to consider the child's IFSP and whether there are components to be incorporated into the child's IEP. A schedule comparable in length to school age students is to be made available if determined appropriate by the IEP team. Further, as stipulated in IDEA, to the maximum extent appropriate, children with disabilities must be educated with children who are not disabled. The LRE requirements of the IDEA apply to all children with disabilities who are served under Part B of the IDEA, including preschool children with disabilities.

IEP Implementation

Once an IEP is developed, it is implemented as soon as possible. The start date can be flexible but must be within a reasonable amount of time. If a child turns three during the summer months and is found eligible to receive services, the IEP team must determine when services begin. It is up to the IEP team to determine if the child waits until the following fall to receive services or if the child needs services immediately and requires Extended School Year (ESY) services. If the child turns three during the summer, and does not require ESY services, special education and related services may begin in the new school year. For example, the IEP may be written in June to start in September (first day of school).

Once the IEP is implemented, Part C services are to be terminated. The child can continue receiving Part C services during the period of time when eligibility is being determined and the IEP being developed. Part C services are to be discontinued once Part B services begin. For some children who begin services and have an IEP implemented at the start of a new school year, it is possible for the child to continue receiving Part C services until the IEP is implemented.

Reporting Indicator 12

The Reporting period for Indicator 12 is July 1 through June 30. An LEA must report on all children served and referred by Part C to Part B for eligibility determination. If a child has not been served by Part C and is referred for special education services for the first time, he or she will not be included in the Indicator 12 count. The child will be included in the Indicator 11 Child Find “timeline” indicator. This includes children referred by Part C but never evaluated or had an IFSP developed. For the reporting period, LEAs are to report on those children who were referred, found eligible, and had an IEP developed. If the child’s third birthday occurs during the summer, the IEP team must consider the date when services under the IEP will begin. If the child does not need ESY services, the date of initiation of services may be the beginning of the school year and the IEP is considered “implemented” by the child’s third birthday for the purpose of Indicator 12.

Instructions

The LEAs are to report the children served and referred from Part C to Part B for eligibility determination. Based on this number, the percentage of children who have an IEP developed by their third birthday is calculated. The OSEP recognizes that not all children referred will be found eligible, thus not have an IEP developed. Further, OSEP recognizes that there are reasons that an IEP may not be developed by the child’s third birthday that are beyond the control of the ITC and/or LEA. Therefore, there are a number of exceptions that result in the exclusion in the final calculation. These include:

- Children not determined eligible due to withdrawal of parental consent, the child moved, or any extenuating circumstance;
- Children that did not meet the time line because the parent repeatedly failed or refused to make the child available;
- Children for whom parent refusal to provide consent caused delays in evaluation or initial services (e.g., referred less than 65 business days prior to age of eligibility);
- Children who were referred to Part C less than 90 days before their third birthdays; or
- Children determined to be NOT eligible and whose eligibility was determined prior to their third birthdays.

All other reasons for a late IEP result in a finding of noncompliance. This includes children referred to Part C more than 90 days before the child’s third birthday, served in Part C, but referred to Part B less than 90 days before the child’s third birthday. In this case, the LEA is still responsible for ensuring that an initial evaluation under Part B is completed and, if the child is

determined eligible, an IEP is developed and implemented by the child's third birthday. It is the responsibility of both programs to work together to make sure that the LEA notification and transition conference for children referred for Part B occur in a timely manner that enables the LEA to meet its responsibility to conduct an evaluation and, if the child is determined eligible under Part B, to develop and implement an IEP. Local Education Agencies are required to provide further documentation for those children that did not have an IEP implemented by the beginning of the school year if they turn age two by September 30 of that school year or by their third birthday. The actual number of days the IEP was late as well as the reason(s) are to be documented and reported.