Late Referrals to IDEA Part C (≤135 days before child’s 3rd birthday)

Introduction and Explanation of the Chart

The attached timeline chart was developed as a technical assistance (TA) document by the Office of Special Education Programs (OSEP) TA Priority Team on Early Childhood Transition in response to questions raised by states about the Individuals with Disabilities Education Act (IDEA) early childhood transition requirements and how they might best fulfill them, particularly considering the 2011 Part C regulations.

When children are referred to Part C as they are approaching age 3, there are different program and Annual Performance Report (APR) reporting requirements for the IDEA Part C and Part B Programs depending on the child’s age. The Part C requirements for these “late referrals” vary for three distinct ranges of days before the child’s third birthday: referred less than 45 days, referred and determined eligible between 46 and 90 days, and determined eligible 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 illustrates the requirements, 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, the 2011 IDEA Part C Regulations and the 2006 IDEA Part B Regulations that relate to transition and child find, and the OSEP Early Childhood Transition FAQs on State Performance Plan/Annual Performance Report (SPP/APR) Indicators C-8 and B-12 released December 1, 2009.

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. States must have transition agreements between the Part C and Part B preschool programs to address 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 that both programs meet the required timelines.

The IDEA Statute and applicable regulations can be accessed at:

- IDEA 2004 Statute (P.L. 108-446) - see Parts B and C
  [https://sites.ed.gov/idea/statute-chapter-33](https://sites.ed.gov/idea/statute-chapter-33)
- IDEA Federal Regulations at 34 CFR Parts 300
  [https://sites.ed.gov/idea regs/b](https://sites.ed.gov/idea regs/b)
- IDEA Federal Regulations at 34 CFR Parts 303
  [https://sites.ed.gov/idea regs/c](https://sites.ed.gov/idea regs/c)
within 45 days of referral, conduct evaluation to
determine eligibility, conduct assessments, and conduct
initial IFSP meeting to develop initial IFSP with transition plan (including steps and services). If determined
dependent and thus receiving service coordination, child is
toddler with disability served by Part C.

Within 45 days of referral, conduct evaluation to
determine eligibility, conduct assessments, and conduct
initial IFSP meeting to develop initial IFSP with transition plan (including steps and services). If determined
dependent and receiving service coordination, child is
toddler with disability served by Part C.

Transition plan is NOT required, but initial IFSP must
include appropriate transition content. These children are NOT reported under Indicator 8A.

May provide parents with information (as part of public awareness) regarding Part B 619 preschool program.

Provide transition notification to SEA and LEA of residence
at least 90 days prior to child’s 3rd birthday for Part C
toddlers with disabilities determined eligible under Part C
and who are determined potentially eligible for Part B
unless State has opt-out policy on file with OSEP and
parent opts out. States with opt-out policies exclude in
Indicator 88 toddlers with disabilities whose parents opted out.

Transition notification to SEA and LEA of residence
required as soon as possible once child determined eligible unless State has opt-out policy and parent
opts out. These children are NOT reported under
Indicator 8B.

Transition notification to SEA and LEA of residence
is NOT required, and child is referred to Part B with
parental consent (if required to disclose personally
identifiable information) if child is potentially eligible.

With family approval, conduct transition conference at
least 90 days (and at the discretion of all parties up to 9
months) prior to child’s 3rd birthday for toddlers with
disabilities determined eligible under Part C and who are
determined potentially eligible for Part B. The transition
conference may be combined with the initial IFSP
meeting. Invite Part B to transition conference.

Transition conference is NOT required. These children are NOT reported under Indicator 8C.

Can choose NOT to conduct initial evaluation, child and
family assessments and initial IFSP meeting. Child is
NOT considered served by Part C if child is referred to,
but not determined eligible under, Part C.

Initial IFSP is not required to be developed. These
children are NOT reported under Indicator 8A.

May provide parents with information (as part of public awareness) regarding Part B 619 preschool program.

Transition notification to SEA and LEA of residence
is NOT required, and child is referred to Part B with
parental consent (if required to disclose personally
identifiable information) if child is potentially eligible.

Transition conference is NOT required. These children are NOT reported under Indicator 8C.
Federal IDEA Part C Transition Requirements for Late Referrals to Part C

**Part C Transition Reporting Requirements**


**Recommended Collaborative Practices via Interagency Agreement**

- May jointly conduct evaluation for respective eligibility criteria to meet Part C and B timelines but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.
- Develop inter- or intra-agency agreement that includes:
  - (1) Part C’s definition of “potentially eligible for Part B;”
  - (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and
  - (3) Part C and Part B eligibility criteria.

**DO NOT report in C8A, 8B and 8C**

- Same

**DO NOT report in C8A, 8B, or 8C**

- Same

**Timeline**

- **135 days before 3rd birthday** (31.5 months): Child referred and determined eligible for Part C
- **90 days before 3rd birthday** (33 months): Child referred and determined eligible for Part C
- **45 days before 3rd birthday** (34.5 months): Child referred to Part C
- **3rd Birthday** (36 months): Child referred and determined eligible for Part C
Federal IDEA Part B Transition Requirements for Late Referrals to Part C

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>90 days before 3&lt;sup&gt;rd&lt;/sup&gt; birthday</td>
<td>LEA must participate in Part C transition conference for children determined eligible under Part C and potentially eligible for Part B.</td>
</tr>
<tr>
<td>45 days before 3&lt;sup&gt;rd&lt;/sup&gt; birthday</td>
<td>Transition conference is NOT required.</td>
</tr>
<tr>
<td>Child referred and determined eligible for Part C</td>
<td>- - --Same-- - -</td>
</tr>
<tr>
<td>2 years 10.5 months</td>
<td>If Part C refers to Part B, Part B contacts parent. If parent initiates request for an initial evaluation, provide parents with procedural safeguards notice.</td>
</tr>
<tr>
<td>3&lt;sup&gt;rd&lt;/sup&gt; birthday 3 years 36 months</td>
<td>Service coordinator is NOT invited to IEP meeting since child was not served in Part C.</td>
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**Indicator B11 (Timely evaluation)**

- Provide procedural safeguards notice to parents upon referral by Part C (SEA and LEA notified that child served under Part C is potentially eligible for Part B).
- Provide prior written notice and obtain parental consent for initial evaluation.
- Review existing evaluation data on the child, including Part C evaluation and assessments.
- Conduct initial evaluation (within 60 days of receipt of parental consent or State-established timeframe or sooner if evaluation timeline expires after 3<sup>rd</sup> birthday) and determine eligibility by 3<sup>rd</sup> birthday.
- Inform family that Part C service coordinator must be invited to IEP meeting at parent’s request; invite Part C service coordinator if parent requests and obtain parental consent to disclose personally identifiable information to Part C, if required.

**Indicator B12 (IEP by 3<sup>rd</sup> Birthday)**

- Conduct IEP meeting to develop IEP within 30 days of eligibility determination (or sooner if 30 days expires after 3<sup>rd</sup> birthday). Consider IFSP when developing IEP, provide prior written notice, and obtain parental consent for services.
- Implement IEP by child’s 3<sup>rd</sup> birthday, including dates for initiation of special education and related services.
- Conduct IEP meeting to develop IEP within 30 days of eligibility determination. Consider IFSP when developing IEP, provide prior written notice, and obtain parental consent for services.
- Implement IEP by child’s 3<sup>rd</sup> birthday or as soon after the child’s 3<sup>rd</sup> birthday as possible.
- Implement IEP as soon as possible after development.
Federal IDEA Part B Transition Requirements for Late Referrals to Part C

<table>
<thead>
<tr>
<th>Part B Reporting Requirements</th>
<th>Recommended Collaborative Practices via Interagency Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report in B11 and B12(a)</td>
<td>May jointly conduct evaluation for respective eligibility criteria to meet Parts C and B timelines, but the evaluation for Part C must meet Part C requirements and evaluation for Part B must meet Part B requirements.</td>
</tr>
<tr>
<td>Report in B11, B12 (a) and B12 (e)</td>
<td>Develop inter- or intra-agency agreement that includes: (1) a definition of “potentially eligible for Part B;” (2) appropriate consent and other procedures to permit the exchange of needed information between Part C and Part B; and (3) Part C and B eligibility criteria.</td>
</tr>
</tbody>
</table>
| Report in B11 | - Same -

**Part C Evaluation Requirements**

- DO NOT report in B12
- NO Part C evaluation is required during this time period.


Please cite as:


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