

Federal Part C Regulations Amendments, Changes, Implementation

Presentation to the Massachusetts
Interagency Coordinating Council

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Federal Part C Regulations

Amendments in all subparts consistent with the Re-Authorization of IDEA 2004

- General/Definitions
- State Application
- Child Find, Evaluation, Assessment and IFSP
- Procedural Safeguards
- Use of Funds
- State ICC
- Federal and State Monitoring, Enforcement and Allocation of Funds

Pre-Referral, Referral, Post-Referral

| Pre-Referral | Referral | Post-Referral |
|---|---|---|
| Public Awareness and Child-find | Timeframe for referral sources to make referral | Screening, Evaluation and Initial IFSP meeting |
| <p>Coordination of child find with CAPTA, EDHI, MCH Home Visiting programs</p> <p>Child find efforts focusing on premature infants, and risk factors</p> <p>Procedures to assist referral sources to disseminate child find information</p> | Referral ASAP but in no case no later than 7 days after the child has been identified | <p>Screening</p> <p>45 day timeline</p> <p>Exceptions to the 45 day Rule</p> <p>“Multidisciplinary”</p> |

Screening

Federal regulations included the provision of screening as a post referral activity

Designed for states with high referral rates not meeting the 45 day timeline

- Associated (multiple) procedural safeguards
- Still need to meet 45 day timeline
- Benefit to providers and families unclear

Evaluation and Eligibility

The lead agency must ensure, after obtaining parent consent, a timely, comprehensive multidisciplinary evaluation to establish eligibility, unless eligibility is established through a child's medical records.

A child's medical records and other records may be used to establish eligibility (without conducting an evaluation of the child), if the records indicate that the child has an established condition

Constitutes a developmental delay (as defined by the State), or

The child meets the criteria of an infant or toddler with a disability. (§303.321(a)(3)(i))

Evaluation and Eligibility

If eligibility is established using medical or other records, the lead agency or EIS provider must still conduct the assessment of the child and family.

(§303.321 (a)(3)(i))

Evaluation and Eligibility

- Informed clinical opinion must:
 - Be used when conducting an evaluation and assessment of the child.
 - May be used as an independent basis to establish eligibility even when other instruments do not establish eligibility.
 - May not be used to negate the results of evaluation instruments used to establish eligibility (§303.321 (a)(3)(ii))

Evaluation and Eligibility

If the child is not eligible, the lead agency/EI Service Provider must:

Provide the parent with prior written notice and include the parent's right to dispute the eligibility determination through the dispute resolution mechanisms (due process hearing, mediation or filing a State complaint). (§303.322)

Evaluation and Eligibility

Multidisciplinary, with respect to evaluation and assessment, may include one person who is qualified in more than one discipline or profession (e.g. special education teacher who is also a speech pathologist).

Multidisciplinary, with respect to the IFSP meeting, must involve two or more individuals or professions and one of these must be the service coordinator. (§303.24)

IFSP

- Adds the terms “results” to measurable results or measurable functional outcomes.
- Length, duration, frequency, intensity, and method of delivery
- Identification of the medical and other services not required under Part C that the service coordinator may assist the family to obtain
- Payment arrangements and consent to access insurance

Transition

Transition Notification

- 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

- The SEA/LEA notification must be consistent with any opt-out policy that the State has adopted. (§303.209(b)(2))
- States can adopt an opt-out policy that permits a parent to object to the disclosure of the child find personally identifiable information (PII). (§§303.209(b)(2) and 303.401(e))
- The opt-out policy includes notifying the parent of the limited disclosure of PII for child find purposes and allowing a specified period of time for the parent to object. (§§303.209(b)(2) and 303.401(e))

Procedures for Transition Plans

§303.209(d)

- Must be in the IFSP.
- Must be established not fewer than 90 days and, at the discretion of all parties, not more than 9 months before the toddler turns age three.
- Review of program options.
- Each family is included in development of the transition plan.
- Must include steps and services.

Each lead agency must inform parents of toddlers about the State Part B program for 3-5 year old children no fewer than 90 days prior to the toddler's third birthday.

Applies to ALL children transitioning from Part C.

Can be included as part of the transition plan required for toddlers at §303.209(d) and §303.344(h).

Transition

| 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 Planning 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))
- For a child exiting Part C and not potentially eligible for Part B, the lead agency (with family approval) makes reasonable efforts to convene 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))

Procedures for Transition Plans

§303.209(d)

- All lead agencies, including those in which the SEA is the lead agency, must establish an interagency or an intra-agency agreement between the early intervention program under Part C and the preschool program under Section 619 of the IDEA.
(§303.209(a)(3)(ii))
- These agreements must include the specific substantive Part B and Part C transition requirements and any opt-out, if an opt-out policy was adopted by the State.

Early Childhood Transition Agreements

| PART C REQUIREMENTS THAT MUST BE ADDRESSED | PART B REQUIREMENTS THAT MUST BE ADDRESSED |
|--|---|
| Transition notification (§303.209(b)) | Upon referral from Part C, the LEA must provide the parent with procedural safeguards notice. (§300.504(a)(1)) |
| Transition conference to discuss services (§303.209(c)) | For children potentially eligible for Part B services, the LEA must participate in the transition conference. (§300.124) |
| Procedures for transition plan 303.209(d) <ul style="list-style-type: none"> •Review of program options •Family involvement in the transition plan •Steps and services | For a child determined eligible under Part B, the LEA must develop and implement the IEP by the third birthday. (§§300.101(b) and 300.124(b)) |
| Combining timely conference and the transition plan (§303.209(e)) | At parent request, the LEA must invite the Service Coordinator to the initial IEP meeting (§300.321(f)) and consider the IFSP (§300.323(b)) |

Procedural Safeguards

| | |
|----------------------|--|
| Consents and Notices | <ul style="list-style-type: none">•Screening•Use of insurance |
| Definitions | <ul style="list-style-type: none">•EIS Provider•Parent•New Requirements for Surrogate Parents |
| Confidentiality | <ul style="list-style-type: none">•Confidentiality requirements that apply specifically to Part C•Reference FERPA in some definition and exceptions |
| Dispute Resolution | <ul style="list-style-type: none">•Mediation•Formal Administrative Complaints•Due Process Hearing |

Confidentiality and Records

- Confidentiality applies from when a child is referred
- Timeline for access - - 10 days
- Copies of Record - - first copy at no charge, all copies of assessments, evaluations IFSP and their updates

Dispute Resolution

Complaints

- Timeline for filing a complaint
- Required elements
- Submitted to Lead Agency and EI provider concurrently

Mediation

- Legally binding mediation agreements
- Signed by both the parent and agency representative who has the authority to bind the agreement
- Allows extension of timeline if both parties agree

Due Process Hearing

- Allows hearing officer to extend timeline at the request of either party
- Extends safeguard to families with referred (not just eligible children)

For Additional Information

OSEP Materials (includes links to audio casts)

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

Pose a question?

<http://idea.ed.gov/>

Click Part C

Pose your question in the text box for a future FAQ