LEA Notification of Change in Requirements for Indicator 12: Transition from Part C to Part B

The Office of Special Education Programs (OSEP) has distributed a document that addresses the State's responsibilities under the Individuals with Disabilities Education Act (IDEA) to ensure a smooth transition for children served in Part C and referred to Part B as these children approach their third birthday.

The following responses to specific transition situations are changes in or clarifications of previous requirements for LEAs to meet the 100% target for indicator 12. Changes to the requirements will be effective beginning in the 2010-2011 school year. Compliance determinations for indicator 12 by KSDE will be based on these requirements. Review the complete OSEP document at http://www.ksde.org/LinkClick.aspx?fileticket=aK8Jo7QKvEI%3d&tabid=2291&mid=8964.

Situation	**Response**
1. A child is referred to Part C at least 90 days before the child's birthday. Child is served in Part C and referred to Part B between 0 and 90 days before the child's third birthday.	The LEA is responsible for ensuring that an initial evaluation under Part B is completed and, if the child is determined eligible under Part B, an IEP is developed and implemented by the child's third birthday. This includes a child served in Part C who was referred to Part C more than 90 days before the child's third birthday, but referred to Part B less than 90 days before the child's third birthday, even if the State-established timeline for conducting an initial evaluation expires after the child's third birthday. 34 CFR §300.124(b). It is the responsibility of both programs to work together to make sure that the LEA Notification and the transition conference for children potentially eligible 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 by the child's third birthday.
2. A child is served in Part C and referred to Part B. After referral, the family moves or disappears before consent to evaluate is signed.	Part B must make reasonable attempts to obtain consent from the parents to conduct the initial evaluation. Reasonable attempts are defined as at least 2 contacts by 2 different methods (phone calls, letters, visits, email, etc.)and documentation of such attempts should be kept including detailed records of telephone calls made or attempted and the results, copies of written correspondence sent to the parents and their response if any, and visits made to the parents' home or place of employment, and the results, if any, from the parents (K.A.R. 91-40-27(g); K.A.R. 91-40-17(e)(2); 34 C.F.R. 300.322(d)(1)).
3. A child is served in Part C and referred to Part B. The LEA schedules the child's IEP meeting with the parent before the child's third birthday at a mutually agreed on time. The parent does not come to the scheduled meeting due to family circumstances (i.e. illness, work schedule changed, child ill). The LEA and parent cannot reschedule the IEP meeting at a mutually agreed on time by the child's third birthday.	If neither parent can attend the meeting, the Part B agency must use other methods to ensure parent participation, like conference calls or video conference (K.A.R. 91-40-17(c)). If after at least two documented attempts to arrange a mutually agreed upon time in which a parent can participate, the Part B agency may consider conducting the IEP meeting without the parent in accordance with K.A.R. 91-40-17(e) in order to meet the district's obligation to offer FAPE by age three and to be compliant with this indicator.
4. Child is served in Part C and referred to Part B. The LEA receives written parental consent to extend the timeline for evaluation beyond the child's third birthday.	The LEA cannot use a State exception to the State evaluation timeline to extend the development and implementation of the IEP past the child's third birthday.