

Kansas Early Childhood Transition

from IDEA Part C to IDEA Part B

Frequently Asked Questions

A vital part of providing quality services to children with disabilities is assuring a smooth transition from Infant and Toddler Services to Preschool Services. Part C of IDEA is a federal program that assists states in operating a comprehensive, statewide program of early intervention services for infants and toddlers with disabilities, from birth through two years of age. Part B of IDEA defines the preschool program, which guarantees a free appropriate public education (FAPE) to children with disabilities ages three through five. Indicator 12 covers the transition from IDEA Part C to IDEA Part B, documenting the children referred by IDEA Part C prior to age three, who are found eligible for IDEA Part B, and who have had an IEP developed and implemented by their third birthday.

In the State of Kansas, The Kansas Department of Health and Environment (KDHE) oversees Part C of IDEA and The Kansas State Department of Education (KSDE) oversees Part B of IDEA. Early identification of children who have disabilities is a shared value and the expectation is that KDHE and KSDE will use their current policies and procedures to facilitate public awareness, child find, screening, referral, evaluation and ensure the smooth and effective transition of children as they move from early intervention services under IDEA Part C into IDEA Part B early childhood special education program and services for the benefit of children and families residing in the State of Kansas. This document is guided by the state and federal regulations implementing Part B, Section 619 and Part C of the IDEA 2004.

1. Does a Part C Program need to make a referral to a Part B Program, even if the parent chooses not to participate in transitioning to Part B services?

Answer: Yes. A referral to a Local Education Agency (LEA)/State Education Agency (SEA) is required for every child potentially eligible for IDEA Part B that has been referred to or is receiving IDEA Part C services. (at least 90 days prior to the third birthday), Part C is also required to refer to the LEA/SEA as soon as possible after eligibility is determined for any child referred to Part C between 45 and 90 days prior to the third birthday.

It is recommended that LEAs and local *tiny-k* programs develop Memorandums of Understanding (MOU) around transition to address the transition process, including referral timelines.

2. How far in advance of the child's third birthday, can a Part C Program refer a child to the LEA and/or hold the transition meeting?

Answer: At the discretion of all parties, the local IDEA Part C *tiny-k* program may hold a transition conference up to nine months, but no later than 90 days before a child's third birthday. It is recommended that LEAs and local *tiny-k* programs develop an MOU around transition to address the transition process, including referral timelines. (Sec. 637(a) (9) (C) and 34 CFR 303.209 (d) (2)).

3. Can a Part C Program refer a child to an LEA prior to determining eligibility for IDEA Part C?

Answer: No, the *tiny-k* program must provide the LEA/SEA referral as soon as possible *after* the toddler's eligibility for IDEA Part C has been determined.

4. Some children are not referred from a Part C *tiny-k* program to an LEA at least 90 days before the child's third birthday. Will an LEA still be held accountable for meeting the third birthday transition timelines for this child under Indicator 12?

Answer: It depends on when the child *was referred to Part C*, not Part B.

- a. If the child was referred to Part C less than 90 days before the child's third birthday, the child is not considered when determining LEA compliance on Indicator 12.
- b. If the child was referred to Part C at least 90 days prior to the child's third birthday, even if Part C referred the child to Part B LEA less than 90 days prior, and the LEA did not determine eligibility and develop the IEP, if appropriate, by the child's third birthday, the LEA would be considered noncompliant on Indicator 12.

Note: If an LEA is receiving referrals from a Part C *tiny-k* program less than 90 days before the child's third birthday, then it is recommended that the LEA address this issue locally with the Part C *tiny-k* program and may consider addressing the issue in a local MOU.

5. What documentation is required when families do not respond to contact attempts during the 9 month to 90 day transition period from Part C to Part B?

Answer: The Part C local *tiny-k* program would still make a referral to Part B letting them know that the family is not responding to contact attempts and provide the last available information the *tiny-k* program had about the family. The *tiny-k* program would document the situation as "exceptional family circumstances" in the child's file and Infant Toddler System (ITS) database. Any updated information such as a new address, should be communicated to Part B {that is permitted by law regarding the SEA notification for toddlers with disabilities under IDEA section 637(a)(9)(A)(ii)(I)}.

The LEA is responsible for providing Procedural Safeguards within 15 school days upon receipt of the referral. LEAs would document all attempts to locate the family at the last known address and attempts made to locate a forwarding address and continue attempts until reaching the child's third birthday.

- 6. A child served in a Part C *tiny-k* program was referred to an LEA, but then moved out of district before the child was evaluated to determine eligibility for Part B. How will that impact the LEA's compliance on Indicator 12?**

Answer: When a child moves from an LEA, after a referral is made but before eligibility is determined, there is a federal exception to the evaluation timeline [CFR300.301 (d)(2)] that exempts this child from being considered in Indicator 12 data. An LEA would report the child had moved between referral and evaluation for Part B eligibility in the Part C to Part B Electronic Referral system (CBER), the child would not be considered when determining compliance on Indicator 12. IDEA Part C would follow the procedures for CBER.

- 7. An LEA received a referral from a Part C *tiny-k* program and obtained consent for an evaluation. Then the family did not respond to contact attempts to set up dates for evaluating the child before the toddler's third birthday. Will the LEA be noncompliant on Indicator 12 in these circumstances?**

Answer: No. The parent's repeated refusal to make the student available for an evaluation (K.A.R. 91-40-8(g)(1) and 34 CFR 300.301(d)(1)) is a federal exception to the evaluation timeline, as long as the LEA attempts contact up until the child's third birthday.

- 8. How soon after a referral from Part C does Part B need to provide parents with their parent rights/procedural safeguards? Can the LEA wait until the transition conference to provide the notice of procedural safeguards?**

Answer: The Notice of Procedural Safeguards, Parent's Rights, must be given to parents upon initial referral or parent request for evaluation. When an LEA receives a Part C referral, it has a reasonable time in which to provide parents with the notice of procedural safeguards. If the transition conference is scheduled within a reasonable time from the date of the Part C referral, an LEA may wait for the transition conference to deliver these documents to the parents. KSDE interprets a reasonable time to be within 15 school days, unless there is a reasonable justification for further delay.

- 9. Transition-aged children's needs and progress change rapidly. If a Part B LEA receives a referral from Part C at least six to nine months in advance of the child's third birthday, is it advisable for the LEA to wait to initiate the initial evaluation of the child?**

Answer: Understanding that a child's development changes rapidly at this age, the LEA may have concerns about the appropriate timing of the initial evaluation and Individualized Education Program (IEP) development. The LEA must carefully weigh the benefits and risks of initiating the evaluation at a later date to ensure that in no case such practice would result in not meeting the timeline for completion of the initial evaluation, and if eligible, implementing the IEP by the child's third birthday.

Part C should inform the family that they will be receiving a copy of their Procedural Safeguards, Parent Rights, along with other information such as contact information from the school district,

**Kansas Early Childhood Transition from IDEA Part C to IDEA Part B
Frequently Asked Questions**

unless the transition conference is scheduled within a reasonable time of the referral. Part C should work with the family to determine the best time to conduct the transition conference.

The LEA is responsible for providing the Procedural Safeguards within 15 school days of receiving the referral. [34 CFR §300.504(a)(1)]. The LEA team will determine, based on the information they receive from Part C and the family, if it is appropriate to obtain informed consent to conduct an evaluation. This may or may not occur during the transition conference. A Prior Written Notice will be provided with supporting data to explain the proposed action of either conducting, or not conducting an evaluation. The Part B LEA will consider the 60 school day timeline upon receiving consent to conduct an evaluation, to avoid being out of compliance with Indicator 11.

- The LEA could respond with prior written notice agreeing with the need for an evaluation, but proposing to conduct that evaluation at a later date certain. The LEA would present a prior written notice and request for consent to the parent accordingly for the proposed date.
- The LEA could respond with prior written notice proposing to conduct the initial evaluation and requesting parent consent, but ask the parent to provide a consent effective later, on a certain specific date.
- The LEA could respond with prior written notice proposing to conduct the initial evaluation and requesting parent consent, but also ask the parent to agree to extend the timeline for the evaluation. The LEA should only use this option in a manner individualized to the needs to a particular child and not as a matter of routine. (K.A.R. 91-40-8(f))

Remember, none of these three methods can be used to extend the completion of the evaluation and IEP beyond the child's third birthday.

10. If a child with a suspected disability becomes known to Part B before their third birthday and has not been receiving Part C services, does Part B have a responsibility to proceed with screening and/or evaluation? Can they have a policy that they do not screen or evaluate before a child turns three?

Answer: Part B has a Child Find duty to proceed with screening or evaluation. Kansas regulations, at 91-40-7(b)(3), require LEAs to implement procedures ensuring the early identification and assessment of children with disabilities. Comments to the federal regulations state that the Part B Child Find requirements begin at birth and overlap with Part C Child Find requirements (Federal Register, Aug. 14, 2006, p. 46584). LEAs should work with the local Part C *tiny-k* programs to develop Child Find activities for children from birth through 2 years to ensure that all children have access to screening in a timely manner. Each *tiny-k* program must have a local interagency coordinating council (ICC), which is one avenue for LEAs and *tiny-k* program to develop collaborative efforts for Child Find in their community.

11. Are there exceptions to Part C’s timeline for the Transition Conference?

Answer: There is one exception. If the program can mark “Exceptional Family Circumstances”, as identified in the Infant Toddler System (ITS) database and Infant Toddler System (ITS) Procedural Manual, a late transition conference will not be found to be out of compliance with Indicator 8.

12. What does it mean to provide information to parents at the transition conference about Part B preschool services?

Answer: Families should be provided a description of the Part B eligibility process (i.e. timelines, informed consent, and eligibility definitions), as well as a description of the special education and related services that are available within the district. LEAs and *tiny-k* programs are encouraged to work collaboratively to determine who will share this information and specifically what information will be shared. Written descriptions are a useful method to ensure that all families receive the same information.

13. When an LEA is not invited to attend a transition conference and a parent indicates they are not interested in an initial Part B evaluation, what happens if the parent changes their mind at the last minute?

Answer: When a parent refuses consent for a transition conference, it does not remove Part C’s obligation to refer the child in a timely manner. The Part B LEA would respond with providing Procedural Safeguards and contact information to the parent within 15 school days from the referral. If the parent requests an initial evaluation less than 90 days before the child’s third birthday, that requests should be considered a parent referral. If the original referral from Part C was *more* than 90 days prior to the child’s 3rd birthday, this child will appear in the Part B LEA’s Indicator 12 data. The Part B LEA may respond to this case during data verification process as “parent refusal” for consent, thus constituting a Federal Exception. The Part B LEA would not be considered out of compliance for Indicator 12, assuming they can provide documentation of this situation.

14. What about children who are receiving Part C services who are functioning at or close to age level, but have not yet been dismissed from Part C services 90 days prior to their third birthday? If a referral was provided to Part B prior to the 90 days and the LEA has reviewed existing data and determined that the LEA does not suspect that the child has a disability under Part B, is the LEA still obligated to evaluate the child prior to the child’s third birthday?

Answer: Part C *tiny-k* programs are required to make a referral to Part B for all children who meet the definition of “potentially eligible.” When a Part C *tiny-k* program makes a referral to an LEA, the LEA must provide the parents with parent rights/procedural safeguards, and provide prior written notice to the parents with its response (proposal of an initial evaluation or refusal to conduct an initial evaluation) within 15 school days. If the LEA’s response is a proposal to conduct an initial

**Kansas Early Childhood Transition from IDEA Part C to IDEA Part B
Frequently Asked Questions**

evaluation, a request for consent to conduct an evaluation must be sent along with the prior written notice. If the LEA's response is a refusal to conduct an initial evaluation, the reasons for the refusal must be included within the prior written notice.

15. Can a school district decide not to send staff to a home for a transition meeting? Can they refuse to send staff to meetings scheduled after their contracted school day?

Answer: Federal regulations, at 34 C.F.R. 300.124(c), state: "Each affected LEA will participate in transition planning conferences arranged by the designated lead agency..." This regulation does not require school staff members to attend these conferences in person. Staff members may participate in conferences through alternative methods, such as telephone conference calls. OSEP guidance regarding IEP meetings also indicates that staff members are not required to attend meetings outside the contracted school day. It is important that LEAs and *tiny-k* program personnel work together to schedule transition conferences at times and places that will enable parents and all other parties an opportunity to participate in the conference. Accordingly, it is recommended that LEAs and local *tiny-k* programs develop an MOU on transition to address the transition process including school hours, dates, and times of availability for conferences.

16. What information should be released from Part C to Part B during the transition process?

Answer: At referral, the following information **must** be provided to the Part B LEA:

- Child's name
- Child's date of birth
- Parent contact information (names, addresses, telephone numbers)

The following information **may** also be included:

- Part C service coordinator's name and contact information
- Language spoken by the child and family
[637(a)(9)(A)(ii)(I)]

At the time the parents agree to the transition conference and have signed consent to release records, any information generated by the *tiny-k* program or its contractors that may be helpful in determining eligibility for Part B and/or in designing appropriate interventions should be released (e.g. a copy of the IFSP, initial Part C eligibility information, home visit notes).

17. Clarify 90 calendar days versus 60 school days

Answer: Part C has a 90 calendar day requirement, as specified in the Part C regulations, at 34 C.F.R. 303.209, regarding the referral process that occurs between 9 months and 90 calendar days before a toddler turns three. This 9 months to 90 calendar days is also the period in which a Transition Planning Conference must be convened. There is no mention of 60 school days in Part C of IDEA. However, in Kansas, Part B has 60 school days to complete an evaluation after a parent has given informed consent. (K.A.R. 91-40-8(f); 34 C.F.R. 300.301(c)). This 60 school day timeline is an additional requirement that the child be evaluated and, if

eligible, have an IEP developed and implemented by the child's third birthday. For children referred from

Part C to Part B, the LEA must meet both requirements by: **(1)** completing the evaluation within 60 school days of obtaining informed consent; and **(2)** completing the evaluation, and if the child is eligible, developing and implementing an IEP by the child's third birthday.

18. In Kansas, there is a State exception that allows LEAs to extend the state's evaluation timeline beyond 60 school days if the LEA has received written parental consent to extend the timeline (K.A.R. 91-40-8(f)). Can the LEA use this exception to extend the timeline for IEP development beyond a child's third birthday and still be compliant?

Answer: No, an LEA cannot use this state exception to extend the timeline beyond a child's third birthday when there is a Part C to B transition. There are only two **federal exceptions** allowed for indicator 12: **(1)** The parent's repeated refusal to make the child available for an evaluation; or **(2)** the child moved out of the district before completion of the child's evaluation to determine initial eligibility for Part B.

19. Where should Part C infant/toddler *tiny-k* programs document that the parents of a child, who was referred to Part C fewer than 45 days before the child's third birthday, chose to skip Part C and go directly to Part B services?

Answer: Since the referral was less than 45 days Part C would still need to refer to Part B with parent consent, if this is a child who might be potentially eligible for Part B. Part C *tiny-k* programs are not required to serve the child since it is less than 45 days and they will not have time to meet their assessment/evaluation/IFSP timelines. *Tiny-k* programs will need to keep written documentation regarding the parent's decision in the child's file and mark the appropriate reason for not conducting an evaluation in the ITS Database.

20. Can an LEA provide services prior to a child's third birthday?

Answer: Yes. Federal regulations (34 C.F.R. 300.323(b)) provide discretion for schools to provide Part B services to a two year-old child with a disability who will turn age three at any time during that school year.

21. An LEA scheduled a child's IEP meeting with the parent before the child's third birthday at a mutually agreed upon time. The parent cancelled that meeting or did not attend. The LEA did not develop an IEP because it could not find another mutually agreed upon time to reschedule the IEP meeting before the child's third birthday. Would the LEA be noncompliant on indicator 12 even though the IEP meeting was originally scheduled before the child's third birthday?

Answer: Yes, an LEA would be considered noncompliant in not meeting the third birthday timeline for indicator 12. This example would not fall under one of the two federal exceptions mentioned in question 18. Strategies that may support an LEA in meeting the third birthday

timeline include:

- Schedule the meeting earlier so there is time to reschedule if an unexpected event occurs,
- Offering to allow the parents to participate in the IEP meeting through alternate methods, such as through conference calls, video conferencing, etc. in accordance with K.A.R. 91-40-17(c)
- Developing the IEP without parent participation in accordance with K.A.R. 91-40-17(e) and presenting the parents with the proposed IEP and prior written notice and consent for services. *This strategy should only be used infrequently, and only when the strategies listed above are not available.*

22. The Kansas Special Education Process Handbook states: Services on the IEP are to be implemented no later than 10 school days after written parent consent for the provision of special education services is granted, unless reasonable justification for a delay can be shown (K.A.R. 91-40-16(b)(2)); How does this apply for children transitioning from Part C?

Answer: Meeting with parents, developing IEPs and obtaining parent consent well before a child reaches their third birthday is encouraged by KSDE as a reasonable approach for LEAs to use to meet their responsibility and complete their work, but also allowing additional time to complete the work in case unexpected circumstances and delays occur. Kansas's regulation 91-40-16(b)(2) should not be interpreted to make this responsibility more difficult.

23. If a child's third birthday is on a Friday, Saturday, Sunday or Monday but the child's IEP specifies that the child will receive services on Tuesday and Thursday, may the LEA wait until the first Tuesday after the child's third birthday to begin services? If a child's third birthday occurs during a weekend or a school break period, may the LEA wait until school is back in session to begin providing special education services?

Answer: Yes. An IEP is considered in effect when the special education and related services are available as specified in a child's IEP. Therefore, if a child's third birthday occurs on a Sunday and the special education and related services are specified in the IEP to be provided on Tuesday and Thursday and those services are available to the child on those days, the IEP is in effect on the child's third birthday to the same extent any child's IEP is in effect on a day when services are not scheduled.

For the same reason, when a child's third birthday occurs during a weekend or during a school break, an LEA may wait until school is back in session before providing that student with the special education services specified in their IEP. In these cases, the IEP will document that an IEP was developed on or before the child's third birthday.

24. What documents can an LEA require before agreeing to start a transition evaluation, develop an IEP, and begin special education services?

- Child Find/Evaluation:
Residency: this should be the same proof required for all students. There are no “extra” federal or state requirements for children of migrant or homeless families.

Proof of Age: LEAs may require some evidence of age. This may include a birth certificate (state, hospital, or other government/nationality issued). If no documentation is available, LEAs may ask a parent/guardian to sign an affidavit to document a child’s age. These forms should be readily available to families.
- Developing the IEP:
Residency
Proof of Age
- Begin services:
Residency
Proof of Age
Immunizations (K.S.A. 72-5209)
Enrollment

Part C and LEAs should work together to prepare families for this process. An MOU may be used to specify each party’s responsibilities. Consider how to make this process family friendly and not act as a barrier to evaluations and services. LEAs that cannot document appropriate efforts to communicate with families to complete this process may be found noncompliant if they exceed the timeline of completing transition prior to the third birthday.

25. Who do I contact when I have questions?

For IDEA Part C guidance, please contact:
Heather Staab at hstaab@kdheks.gov or 785-296-2245

For IDEA Part B guidance, please contact:
Julie Rand at jrand@ksde.org 785-296-1944

For questions regarding Training or Technical Assistance, contact Birth to three years old: KITS at www.kskits.org or 620-421-6550 ext. 1618

Kansas State Department of Education Early Childhood Education, Special Education and Title Services Team (ECSET) at www.ksde.org

Three to five years old: Kansas Technical Assistance System Network (TASN) www.ksdetasn.org