
Kansas Early Childhood Transition from **IDEA Part C to Part B**

Frequently Asked Questions

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KANSAS EARLY CHILDHOOD TRANSITION FROM IDEA PART C TO IDEA PART B FREQUENTLY ASKED QUESTIONS

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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 2 years of age. Part C Indicator 8 identifies the responsibility of Part C service programs in transition planning and engaging in timely planning in support of the child's transition to Part B preschool services or other community services by their 3rd birthday.

Part B of IDEA **defines the preschool program**, which guarantees a free appropriate public education (FAPE) to children with disabilities ages 3 through 5. Part B **Indicator 12** covers the transition from IDEA Part C to IDEA Part B, documenting the children referred by IDEA Part C prior to age 3, who are found eligible for IDEA Part B, and who have had an IEP developed and implemented by his or her 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. 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 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 and no more than 9 months prior to the third birthday). Potentially eligible is defined in the [Kansas Infant-Toddler Services Procedural Manual, XIV-2](#), as children receiving services [Part C] 90 days prior to their 3rd birthday or determined eligible for Part C services at least 45 days prior to their 3rd birthday.
- Part C is 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 3rd birthday.

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

Answer

- No, if the child has been referred to Part C more than 45 days before the 3rd birthday, official Part B referral cannot be sent until eligibility for IDEA Part C has been determined.
- Yes, if a child has been referred to Part C fewer than 45 days before the 3rd birthday, then the child could be referred to Part B given consent to share information by the parent. The local Part C program is not required to conduct the initial evaluation, assessment, or IFSP meeting, and the Part C program, with parental consent, must refer the toddler to the SEA and appropriate LEA. [34 CFR § 303.209 \(b\)\(iii\), Part C Procedural Manual XIV 5](#).
- Yes, if a child has been referred to Part C between 45 days and 90 days before the 3rd birthday, then, if all parties (Part C, LEA, and parents) agree, then the family can decline Part C evaluation and go directly to Part B with written consent for Part B to conduct the evaluation.

3. How far in advance of the child's 3rd birthday can a Part C Program hold the transition conference?

Answer

The local Part C program may have a transition conference up to nine months, but no later than 90 days before a child's 3rd birthday. Efforts should be made to coordinate with the LEA, the parents, and Part C to schedule a meeting time, date, and location to allow all parties to attend. Transition conferences must be held within Part C's Indicator 8 compliance timeline and must meet the accessibility, convenience, and participant requirements for IFSP meetings. [34 C.F.R. §§ 303.342\(d\) and \(e\)](#) and [303.343\(a\)](#).

4. What is the LEA's responsibility, under Part B, if a child who has been served in Part C is referred to Part B?

Answer

When a child who has been served in Part C is referred to Part B, the LEA is responsible for giving the parents of the child a copy of the procedural safeguards notice. [34 CFR § 300.504\(a\)\(1\)](#). A child who is receiving services in Part C, 90 days prior to their 3rd birthday, or determined eligible 45 days prior to their 3rd birthday, is potentially eligible for Part B. Therefore, the LEA must initiate the evaluation process to determine whether the child is a child with a disability. [34 CFR § 300.301\(b\)](#). Before conducting an initial evaluation under Part B, the LEA must, after providing the parents prior written notice consistent with [34 CFR § 300.503](#), obtain informed consent, consistent with [34 CFR § 300.9](#), from the parent of the child. [34 CFR § 300.300\(a\)](#).

5. How soon after a referral from Part C does Part B need to provide parents with his or her 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.

6. Some children are not referred from a Part C program to an LEA at least 90 days before the child's 3rd 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 3rd 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 3rd 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 3rd birthday, the LEA would be considered noncompliant on Indicator 12.
- c. If a child is referred to the Part C program fewer than 45 days before the child's 3rd birthday, the Part C program, with parental consent, must refer the child to the SEA and appropriate LEA [34 CFR § 303.209 \(b\)\(iii\)](#).

7. If a child with a suspected disability becomes known to Part B before his or her 3rd birthday, and has not been receiving Part C services, what is Part B's responsibility?

Answer

Kansas regulations ([K.A.R. 91-40-7\(b\)](#)) require each school district to have policies and procedures in effect ensuring the early identification and assessment of disabilities in children.

Comments to the federal regulations state that the Part B Child Find requirements begin at birth and overlap with Part C Child Find requirements [§ 303](#). LEAs and Part C programs should work together 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 Part C program must have a local interagency coordinating council (LICC), which is one avenue for LEAs and Part C programs to develop collaborative efforts for Child Find in his or her community.

Under 34 CFR 303.303(a)(1)-(2), any primary referral source, which includes LEA's, must refer a child who has been identified as a child suspected of delay or disability to Part C as soon as possible, but not more than seven days after the child has been identified.

8. Where should Part C programs document that the parents of a child, who was referred to Part C fewer than 45 days before the child's 3rd birthday, chose to skip Part C and go directly to Part B services?

Answer

When a referral is made less than 45 days before the child's 3rd birthday, Part C would refer to Part B, with parent consent. In such a situation, Part C programs are not required to serve the child since it is less than 45 days. Part C 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 Part C database.

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

Answer

If a child has been determined eligible for Part C, they would also be determined as potentially eligible for Part B.

In this situation, the Part C local program is still required to make a referral to Part B and letting them know that the family is not responding to contact attempts. Part C must also provide the latest available information about the family that is permitted by law regarding the SEA and LEA notification for toddlers with disabilities under IDEA section [637\(a\)\(9\)\(A\)\(ii\)\(I\)](#). The Part C program should document the situation appropriately in the child's file and Part C database. This documentation includes updating the family service coordination/early interventionist log to identify, in detail, each attempt made to contact the family as well as any information that has been

communicated to the LEA. If the family continues to not respond to Part C's attempts to contact, the child cannot be exited from Part C until either the IFSP expires or child's 3rd birthday.

When the LEA receives such a referral, the LEA is responsible for providing Procedural Safeguards and a Prior Written Notice to the parents, either proposing or refusing to evaluate, within 15 school days upon receipt of the referral.

Additionally, if the LEA proposes to evaluate and the parent does not respond, the LEA must make reasonable attempts to obtain consent from the parents to conduct the initial evaluation. Reasonable attempts are defined as at least two contacts by two 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\(d\)\(1\)](#). If the parent does not provide (refuses) consent or fails to respond to a request to provide consent for an initial evaluation, the school may, but is not required to, pursue the initial evaluation by utilizing mediation or by requesting a due process hearing. The school does not violate its obligation for child find or for conducting an initial evaluation if it declines to pursue the evaluation after such attempts to gain parental consent. [K.A.R. 91-40-27\(f\)\(1\), \(3\)](#); [34 C.F.R. 300.300\(a\)\(3\)](#). For more on LEA requirements when it receives a referral for an initial evaluation, please see [Chapter 3](#)¹ of the Kansas Special Education Process Handbook.

10. Are there exceptions to Part C's timeline for the Transition Conference?

Answer

The transition conference is considered an IFSP meeting and therefore, must meet the IFSP meeting requirements. The required participants may vary depending on the type of IFSP meeting being held, however all IFSP meetings, including a transition conference, must have present both the Family Service Coordinator and Parent in order to proceed. [34 CFR 303.343](#). Further, IFSP meetings must be conducted in a setting and time convenient for the family and in the family's native language or other mode of communication used by the family, unless clearly not feasible to do so. In addition, meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting to ensure that they will be able to attend. [34 CFR 303.342\(d\)\(1\)-\(2\)](#). If the parent does not consent to the conference, there will be no transition conference held.

Due to requirements such as these, one allowed exception to the 45 day timeline is called "Exceptional Family Circumstance". If the exception is used, the program must mark that reason in the Part C database to clearly identify it is delayed due to an "Exceptional Family Circumstance". The Part C Family Service Coordinator must also document the information supporting the reason within the child's file.

¹ <https://www.ksde.org/Portals/0/SES/PH/PH-Ch03.pdf?ver=2019-05-21-102539-863> (PDF)

Another exception to Part C's timeline for the transition conference is when a child is referred to Part C after 90 days from the child's 3rd birthday ("Late Referral to Part C"). In such as case, Part C is not held accountable to the transition conference timeline, however, with parent consent, Part C should attempt to schedule the transition conference as soon as possible.

Both exceptions would still be compliant with Part C's Indicator 8.

11. Can a school district refuse to send staff to conferences scheduled after his or her contracted school day?

Answer

The transition conference is considered an IFSP meeting and must meet the IFSP meeting requirements.

Federal regulations, at [34 CFR § 300.124\(c\)](#), state:

"Each affected LEA will participate in transition planning conferences arranged by the designated lead agency."

The transition conference is considered an IFSP meeting ([Part C Procedural Manual XIV-3](#)). IFSP meetings are to be scheduled in settings and times convenient to families and in the native language or other mode of communication ([Part C Procedural Manual XII-2](#)). Also, meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting to ensure that they will be able to attend. 34 CFR 303.342(d)(1)-(2). Part C programs are required to invite Part B preschool representatives from the LEA where the family resides if the child is potentially eligible for Part B services. Efforts should be made to coordinate with the LEA to schedule a meeting time, date, and location to allow LEA staff to attend. The Part C transition conference must be held within [Part C's Indicator 8 compliance timeline](#).

Can a school district decide not to send staff to a home for a transition conference?

This regulation does not require LEA staff members to attend these conferences in person. Staff members may participate in conferences through alternative methods, such as telephone conference calls or other means of technology (e.g., zoom meetings). If the LEA is unable to send a representative to the transition conference, the Part C Program is still responsible for convening a timely transition conference and conveying the information required by the Part B program to the parent ([Part C Procedural Manual XIV-3](#)).

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

Answer

The purpose of a transition conference is to allow families to gather information about the plan they want for their child as they leave Part C services. Transition meetings provide an opportunity for both Part C and Part B to support the family and provide the family with information that will help them make informed decisions regarding their child.

LEAs must provide the families with a copy of the Procedural Safeguards, Parent Rights. Additionally, 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 Part C programs are encouraged to work collaboratively to determine who will share this information and specifically what information will be shared. Written descriptions may be a useful method to ensure that all families receive the same information.

The Families Service Coordinator should support the family by helping to facilitate the discussion during the meeting. During the transition conference, within the IFSP, there is an agenda that includes the expected information noted above which should help guide the team as they discuss transition items during the meeting. The Family Service Coordinator will note, within the IFSP, any discussion points, plans, or timelines discussed during the meeting, as well as who is identified as responsible for supporting each agenda item. The information shared and documented should be discussed and individualized for the child and family.

Under [Section 300.124\(c\)](#), LEAs are required to participate in transition conferences. If the LEA is unable to send a representative to the transition conference, the Part B representative may participate by phone, zoom, or other any other method permitted under Part B. In such a case, the LEA must still provide required information (Procedural Safeguards), and should provide any other helpful information, to Part C so that Part C can present it to the family at the meeting. The local Part C program is still responsible for convening a timely transition conference.

13. 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.

At the time the parents agree to the transition conference **and** have signed consent to release records, any information generated by the Part C 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) to Part B.

14. Transition-aged childrens' 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 3rd 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. In such a case, the LEA should carefully weigh the benefits and risks of initiating the evaluation at a later date, taking into consideration timeline requirements for completion of the initial evaluation, and if eligible, implementing the IEP by the child's 3rd birthday.

Part C should inform the family that they will be receiving a copy of his or her Procedural Safeguards, Parent Rights, along with other information such as contact information from the school district, unless the transition conference is scheduled within a reasonable time (15 days) of the referral, in which case the information can be presented to the family at that time. Part C should work with the family, and the LEA, to determine the best time to conduct the transition conference.

The LEA must provide the parent with the Procedural Safeguards within 15 school days of receiving the referral. Additionally, the LEA team will determine, based on the information it receives from Part C and the family, if it is appropriate to conduct an initial evaluation. If the LEA determines that an initial evaluation is needed, The LEA must obtain informed consent to conduct an evaluation. Obtaining consent may or may not occur during the transition conference. Further, a prior written notice must be provided, with supporting data, to explain the proposed action of either conducting, or not conducting, an evaluation. The LEA must adhere to the 60-school day timeline upon receiving consent to conduct an evaluation, to avoid being out of compliance with Indicator 11-Child Find.

- 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. 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\(f\)](#)).

***Note:** Remember, none of these three methods can be used to extend the completion of the evaluation and IEP beyond the child's 3rd birthday.

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

Answer

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.

16. An LEA received a referral from a Part C 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 child’s 3rd 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 3rd birthday.

17. A child served in a Part C 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 Part B referral is made but before eligibility is determined, there is a federal exception to the evaluation timeline ([34 CFR 300.301 \(d\)\(2\)](#)) that exempts this

child from being considered in Indicator 12 data. An LEA would report that the child had moved between referral date and evaluation for Part B eligibility in the Part C database. The child would not be considered when determining compliance on Indicator 12. The Part C program should not make a second referral, rather they should contact the new LEA identifying the child has moved into their district. The new Part C program is still required to support the transition to the new LEA and document those steps within the child's file.

If the Part C Program or the original LEA becomes aware of the family's new address, then a referral should be made to the new LEA. If prior to the child's 3rd birthday, the referral would be the responsibility of the Part C Program, if following the child's 3rd birthday, the referral should be made by the original LEA.

18. An LEA scheduled a child's IEP meeting with the parent before the child's 3rd 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 3rd birthday. Would the LEA be noncompliant on Indicator 12 even though the IEP meeting was originally scheduled before the child's 3rd birthday?

Answer

Yes, an LEA would be considered noncompliant in not meeting the 3rd 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.*

19. 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 3rd birthday and still be compliant?

Answer

No, an LEA cannot use this state exception to extend the timeline beyond a child's 3rd 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.

20. 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 his or her 3rd 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 3rd birthday?

Answer

Part C programs are required to make a referral to Part B for all children who meet the definition of "potentially eligible." When a Part C 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 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.

21. During the transition process from Part C to Part B, if the parent indicates they are not interested in an initial Part B evaluation, what are the expectations of the LEA if the family changes their mind at the last minute?

Answer

A parent may decide that they do not want to begin the transition process from Part C to Part B. In this situation, Part C must still make a referral to Part B, The LEA must still respond to the referral by providing Procedural Safeguards and contact information to the parent within 15 school days from the referral. If, the parent later decides to begin the transition process, and the parent requests an initial evaluation **less** than 90 days before the child's third birthday, the LEA should consider such a request a parent referral.

If the original referral from Part C was **more** than 90 days prior to the child's third 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.

*Note: If a child has been referred from Part C to Part B and the parent declines both consent to share information and an initial Part B evaluation, the LEA must still provide Prior Written Notice and request for consent to conduct initial evaluation. The LEA must make reasonable attempts to obtain consent from parents, per [Chapter 3 in the Process Handbook](#).

22. 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 3. 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.
2. Completing the evaluation, and if the child is eligible, developing and implementing an IEP by the child's third birthday.

23. Part B 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

Obtaining parental consent, meeting with parents, and developing IEPs well before a child's 3rd birthday is encouraged by KSDE as a reasonable approach for LEAs to meet Indicator 12 timeline requirements while allowing for unexpected circumstances. Canceled or rescheduled meetings, no shows, nor illnesses are reasonable justifications for delay. Reasonable justification for IEP implementation may be a child turning 3 during the summer or when a child has not yet reached their 3rd birthday.

24. 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 2-year-old child with a disability who will turn age 3 at any time during that school year.

25. 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 his or her IEP. In these cases, the IEP will document that an IEP was developed on or before the child's third birthday.

Also, an eligible Part B child may also begin services under an approved Individualized Education Plan (IEP) anytime during the school year in which the child has his or her third birthday. A decision may also be made to begin Part B services prior to the third birthday for a variety of reasons (i.e., Timing (at the beginning of a school year or before a school break period)). Upon initiation of Part B services, the child may no longer receive Part C services.

26. What are the LEA's responsibilities if an IFSP/IEP team (with parents) decide to adopt an IFSP to serve as the IEP for a child transitioning from Part C to Part B?

Answer

On [page 69](#)², in the **Kansas Special Education Process Handbook**, it states that districts are required to ensure the following for ANY and ALL children transitioning from Part C to Part B:

- a. the parents are provided with a copy of the Parent Rights Notice (procedural safeguards)
- b. eligibility is determined according to Part B requirements through an initial evaluation.
- c. if eligible, an IEP or IFSP is in effect by the child's 3rd birthday;
- d. if a child's 3rd birthday occurs during the summer, the child's IEP team determines the date when services will begin, but not later than the beginning of the school year following the 3rd birthday; and

² <https://www.ksde.org/Portals/0/SES/PH/PH-Ch04.pdf?ver=2020-08-06-104123-623> (PDF)

- e. A representative of the district will participate in transition planning conferences arranged by the Part C program. ([Section 300.124\(c\)](#))

IF a team (and parents) decide to adopt an IFSP in place of an IEP, districts are ALSO required to ensure the following:

- a. the LEA must provide the child's parents with a detailed explanation of the differences between an IFSP and an IEP.
- b. the LEA must obtain written consent from the parent for use of the IFSP as the child's IEP.
- c. If the IEP team is using an IFSP for children who are at least 3 years of age, it must contain the IFSP content, including the natural environments statement, an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills, and all Part B procedural and substantive requirements pertaining to an IEP must also be followed.

Note: If the child's IFSP indicates services will end by the 3rd birthday, but the team decides services will continue adopting the IFSP, then the team needs to amend the IFSP to include the services that will continue for the child beyond the 3rd birthday.

27. Is it required for local Part C and Part B programs to develop a Memorandum of Understanding (MOU) to address transitions from Part C to Part B?

As a condition of receiving Federal funds under Part C of the Individuals with Disabilities Education Act, [Section 303.209\(a\)\(3\)](#), requires the lead agency to ensure cooperation among State agencies involved in delivering Part C services to eligible children and their families by entering into interagency agreements with these State agencies.

While it is not a federal requirement for local programs to develop an MOU, this type of written agreement can facilitate effective communication and collaboration between Part C and Part B programs and prevent common challenges between agencies. Local MOU's provide guidelines and information regarding how Part C and Part B will work together to support the transition process for children and families. Some considerations to include are:

- Language around actions, roles, and responsibilities of each agency. Clear distinction of which agency's resources are supporting each of the activities.
- MOUs should be reviewed on a regular basis (e.g., minimally annually)
- Accuracy of information and compliance with both Part C and Part B regulations
- Formal and informal lines of communication should be identified and established within and between agencies.
- All acronyms should be spelled out the first time used.
- Concise information is best.
- Timely information is important, and information needs to be sustainable over time (e.g., use positions/roles instead of names)
- Make sure information is understandable for all (including families and new staff)

28. Who do I contact when I have questions?

For **IDEA Part C guidance**, please contact:

Tricia Waggoner
Part C Coordinator
Kansas Early Childhood Developmental Services, KDHE
(785) 296-2245
Tricia.J.Waggoner@ks.gov

For **IDEA Part B guidance**, please contact:

KSDE Early Childhood Special Education
(785) 296-6602

For questions regarding **Training** or **Technical Assistance**, contact:

Kansas State Department of Education
Early Childhood Education
Special Education and Title Services Team (SETS)
<https://www.ksde.org>

Birth to three years old:

Kansas Inservice Training System (KITS)
<http://kskits.org/>
(620) 448-3067

Three to 5-years-old:

Kansas Technical Assistance System Network (TASN)
<https://www.ksdetasn.org/>