


Transition from Early Intervention to
Preschool and Beyond:
Recommended Practices and Legal
Foundations

Kathy T. Whaley
Early Childhood TA Center

Workshop Presentation for the
Region 2 TA Meeting 2017
August 9, 2017 – Austin, Texas



Getting Acquainted!



DC, DE, KY, MD, NC, SC, TN, VA and WV

Center Affiliation

- Parent Training and Information Center
- Region 2 PTAC (Parent Technical Assistance Center)
- Center for Parent Information and Resources (CPIR)
- Native American Parent Technical Assistance Center (NAPTAC)
- Branch Military Parent Technical Assistance Center (MPTAC).

Presentation Objectives

- Information on early childhood transition requirements and regulations
- Information on frameworks and models for designing and implementing effective transition practices
- Information on both evidence-based and recommended early childhood transition practices
- Information on key questions for reflection upon and assessment of current program practices related to transition including how we support families in the process
- Opportunities to share concerns, strategies and network with colleagues.
- Information on strategies and resources

4

How Can We Support Families?

- Know the law
- Know the policies
- Know unique state context and variation
- Know where to locate resources



5

Lets Begin with Reflection

Considering the transition of young children and their families in EI/ECE /ECSE programs.....

- What is going well?
- What are you proud of?
- What are the key challenges you are facing in your work with families and local and state systems?

6

Legal Resources and Tools



Federal Action and Perspectives



Regulatory Requirements

- **IDEA 2004** *December 3, 2004*
20 USC 1400
- **Part B Regulations** *August 14, 2006*
34 CFR Parts 300 and 301 Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities
- **Part C Regulations** *September 28, 2011*
34 CFR Part 303 Early Intervention Program for Infants and Toddlers with Disabilities
- **Unique State Rule and Policy**
- **OSEP Policy Letters; Q&As**

OSEP Policy Letters

- Part C and Part B - clarifying certain requirements in Parts B and C of the IDEA that were explained in OSEP's Early Childhood Transition Frequently Asked Questions (FAQ) document. (Hutton & East, 2/9/11)
- Part B, Section 612 - State Eligibility - Use of evaluations conducted under Part C of IDEA to determine eligibility under Part B of IDEA; and (3) placement options for preschool-aged children with disabilities. (Hirsh, 8/9/05)

<http://ectacenter.org/idea/clarfctnltrs.asp>

10

National Joint Policy Statements from ED & HHS

- Expulsion and Suspension Policies in EC Settings
- Family Engagement
- Supporting the Development of Dual Language Learners in EC Programs
- Inclusion in Early Childhood Settings

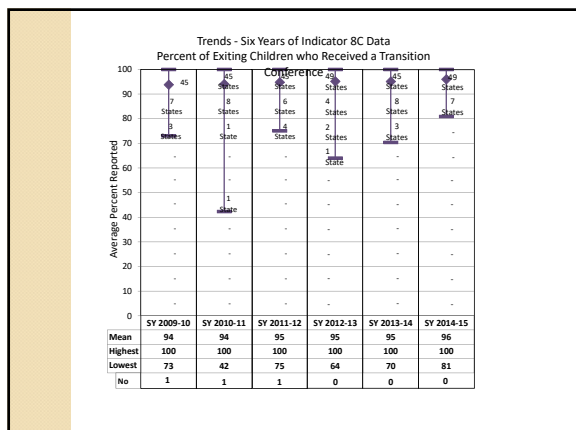
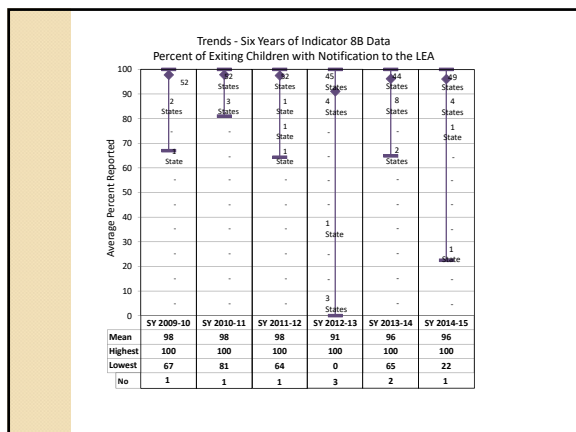
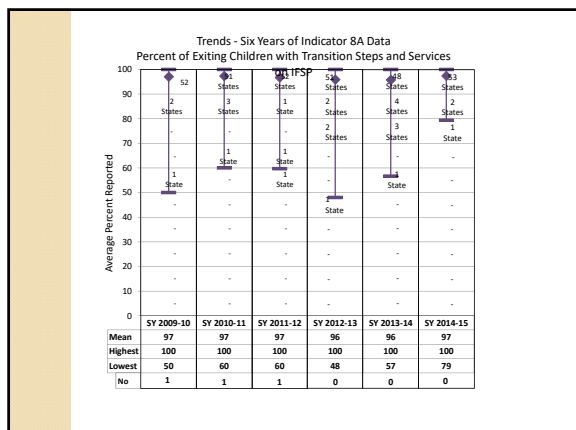
11

IDEA Annual Performance Reporting Indicator C8 Requirements

Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:

- A. IFSPs with transition steps and services; (FFY 14-15, 97%)
- B. Notification to SEA & LEA, if child potentially eligible for Part B (FFY 14-15, 96%)
- C. Transition conference, if child potentially eligible for Part B. (FFY 14-15, 96%)

12



IDEA Part B Annual Performance Reporting Indicator B11 – Initial Evaluation

Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the state establishes a timeframe within which the evaluation must be conducted, within that timeframe.

(National Average FFY 12-13 – 98%)

16



17

IDEA Part B Annual Performance Reporting Indicator B12 - IEP by Age Three

Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthday.

(National Average FFY 14-15, 97%)

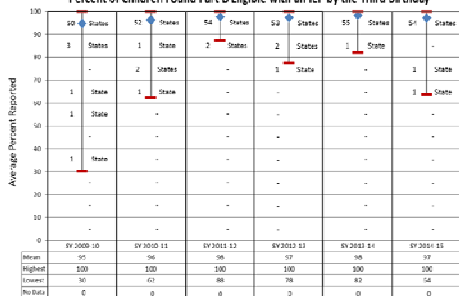
18

Indicator B12 Measurement Requirements

- a. # of children who have been served in Part C and referred to Part B for eligibility determination
- b. # of those referred determined to be NOT eligible and whose eligibility was determined prior to their third birthdays
- c. # of those found eligible who have an IEP developed and implemented by their third birthdays.
- d. # of children for whom parent refusal to provide consent caused delays in evaluation or initial services
- e. # of children who were referred to Part C less than 90 days before their third birthday.

19

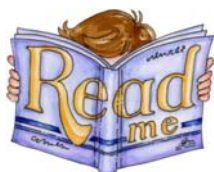
Trends - Six Years of Indicator B12 Data:
Percent of Children Found Part B Eligible with an IEP by the Third Birthday



20

What does state and national data tell us about what is happening?

- Do you know how your states and communities are doing?
- What they are reporting?
- What do these data tell us about the family experiences?
- What about quality?



21

Transition Requirements Parts C & B



IDEA 2004

LAW

istockphoto

22

Transition Notification (Referral) (§303.209(b)(1))

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))

23

Transition Notification (Referral)

Content of the **SEA** and LEA notification must include information to assist Part B in their child find responsibilities

Must include:

- Child's name
- Child's date of birth
- Parent contact information

May additionally include:

- Service Coordinator's name and contact information
- Language(s) spoken by the child and family

24

Transition Notification (Referral)

- School districts (LEAs) are responsible for establishing policies and procedures for acting upon referral. No specified federal timeline.
- Part B provides procedural safeguards to parents and attends transition conference/IFSP meeting.

25

Transition Notification (Referral)

- States may create a policy allowing families the opportunity to “opt-out” of this disclosure of personally identifiable information.
- If state has an approved “opt out” policy, then families are given a period of time to object to the transmission of personal information.

(34CFR 300.504(a)(1))

26

Transition Notification (Referral) (§303.209(b)(1))

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).

27

Transition Plan
(§303.209(d))

- **IFSP includes a transition plan** for all infants and toddlers with a disability exiting from Part C
- Must include **steps to exit and services** identified as needed to support smooth transition (§303.209(d)(3)) and consistent with (§303.344(h))
- Reviews program options for toddler from third birthday through the remainder of school year

28

Transition Plan
(§303.209(d))

- Service coordination services includes facilitating the development of a transition plan. (§303.34(b)(10))
- Families are included in transition plan development
- **Developed not fewer than 90 days and not more than 9 months before third birthday**

29

Procedures for Transition Plans
§303.209(d)(3)

Steps to exit from Part C	Services identified as needed
<ul style="list-style-type: none"> • Child find information is transmitted to the LEA or other relevant agency. • Transmission of additional information, such as the most recent evaluation, assessments and IFSP (with parental consent). • Will vary depending on the program to which the child is transitioning. 	<ul style="list-style-type: none"> • Support transition of the child. • Identified by the IFSP team. • Needed by the toddler and his or her family. • Discussions with and training of parents regarding future placements and other matters related to transition of their child (Head Start or other preschool options).

30

Transition 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))

31

Combining the Conference and the IFSP Meeting – Meeting Participants

- Transition conference and IFSP meeting **may be combined** to develop a transition plan, *but* must meet the requirements in §§ 303.342(d)(*Accessibility and convenience of meetings*) and (e) and 303.343(a) (*IFSP Team meeting and periodic review*)
- If the transition conference is combined with the IFSP meetings, additional participants may be required to attend as required by IFSP requirements.

32

Transition Conference

- Part C is required to invite the LEA, unless the parent does not approve of convening the transition conference.
- LEA is required to participate in the transition conference (IDEA 612(a)(9) & Part B Regulations 300.124(c))
- LEA may participate via phone if agreeable to the parent

33

What about late referrals to Part C or Part B that might affect timeline requirements?

How does this affect families and program staff?

Timing of Referral

Children referred ≤ 45 days from 3 rd Birthday	Children referred & eligible 45 - 90 days from 3 rd Birthday
May, but not required, to:	Must:
Conduct initial evaluation	Conduct initial evaluation
Conduct initial IFSP meeting	Conduct initial IFSP meeting
Develop Transition Plan	Develop Transition Plan
Provide LEA Notification	Provide LEA Notification
Must refer to Part B if the toddler may be eligible and parent provides consent	
May conduct Transition Conference, but NOT required	

Late Referral to Part C – Part B Responsibilities

For children referred to Part C ≤ 90 days from child's 3rd birthday and "served" by Part C, Part B must:

- Conduct initial evaluation within 60 days or other state timeframe. (even if timeline expires after 3rd birthday)
- Conduct IEP Meeting (30 days from eligibility determination)

Late Referrals from Part C to B - Part B Responsibilities

Children referred to and served by Part C \geq 90 days

BUT referred to Part B \leq 90 days from child's 3rd birthday

Same responsibilities:

- Conduct initial evaluation (even if timeline expires after 3rd birthday)
- Conduct IEP Meeting

37

Part B Initial Evaluation & Eligibility Determination

- IEP team and other qualified individuals must review existing evaluation data, including evaluations and information provided by parents
- Based on that review and input by family, team determines what additional data are needed to determine if child is child with disability
(Part B Regulations 300.305)
- Part C evaluations and assessments may be used to determine child eligibility (OSSEP Policy Letter to Hirsch)

38

When Must IEPs Be In Effect

- (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and
- (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

(Part B Regulations 300.323)

39

IEP Team & Parent Participation

- An invitation **must, at the request of parents** be sent to Part C service coordinator or other representative of Part C System

(Part B Regulations 300.321(f))

- **Must inform** parent of this provision

(Part B regulations 300.322(a)(2)(b)(ii))

Communication with Parents

- Notify parents of the meeting early enough to ensure that they will have an opportunity to attend
- Schedule the meeting at a mutually agreed on time and place.
- Notice indicates the purpose, time, and location of the meeting and who will be in attendance

(Part B Regulation 300.322(a)(1)(2)(b)(i)(ii))

Communication with Parents

(ii) Inform the parents of the provisions in Sec. 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child),

and Sec. 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).

(Part B Regulation 300.322(a)(1)(2)(b)(i)(ii))

Other Methods to Ensure Parent Participation

If neither parent can attend an IEP Team meeting:

Public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with Sec. 300.328 (related to alternative means of meeting participation).

43

LRE Requirements

Each public agency must ensure that--

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(Part B Regulation 300.114)

44

Placements

The placement decision--

- (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
- (2) Is made in conformity with the LRE provisions of this subpart, including Sec. Sec. 300.114 through 300.118;

(Part B Regulation 300.116(a))

45

Placements

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications

(Part B Regulation 300.116(c)-(d))

46

Continuum of Alternative Placements

- Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

(Part B Regulation 300.115(a) & (b))

47

Nonacademic Settings

The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

(Part B Regulation 300.117)

48

FAPE Beginning at Age Three

- Obligation to make FAPE available to each eligible child no later than the child's third birthday and an IEP is in effect
- IEP is in effect and includes the projected date for beginning services
- Third birthday occurs in summer, IEP team determines date when services begin

(Part B Regulation 300.301(b))

49

Extended School Year (ESY)

Each public agency must ensure that ESY services are available as necessary to provide FAPE.

- Determined by IEP Team
- Individualized basis in accordance with the IEP requirements
- At no cost to the family
- May not limit to specific disability categories
- May not unilaterally limit type, duration or amount of those services

(Part B Regulation 300.106)

50

Extended School Year and FAPE

From the Analysis of Comments:

Section 300.101 (a) clearly states that FAPE must be available to all children aged 3 through 21

The right of an individual child with disabilities to ESY Services is based on a child's entitlement to FAPE.

(p. 46582)

51
