

# Transition from Part C to Part B Question and Answer Document

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## Introduction:

The Infant and Toddler Connection of Virginia (Part C of IDEA) is in the Virginia Department of Behavioral Health and Developmental Services (DBHDS). Early Childhood Special Education (Part B of IDEA) is in the Virginia Department of Education (DOE). Both agencies have responsibilities for ensuring the smooth and timely transition of children. There are regulations governing both Part C and Part B of IDEA.

- Regulations for Part C can be found on the Infant and Toddler Connection of Virginia Web site at <http://infantva.org/>
- Regulations for Part B can be found at [http://www.doe.virginia.gov/special\\_ed/regulations/state/index.shtml](http://www.doe.virginia.gov/special_ed/regulations/state/index.shtml)

Section VII of the *Virginia Interagency Memorandum of Agreement Among the Agencies Involved in the Implementation of Part C of the Individuals with Disabilities Education Act (IDEA)* documents the agreement between the DOE and DBHDS with regard to transition responsibilities. This agreement can be found at <http://www.infantva.org/documents/STATE-IDEA-MOA-2014.pdf>.

## Glossary of Terms for Part B

These terms and others can be found in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*.

**Age of Eligibility:** Age of eligibility means all eligible children with disabilities who have not graduated with a standard or advanced studies high school diploma who, because of such disabilities, are in need of special education and related services, and whose second birthday falls on or before September 30, and who have not reached their 22nd birthday on or before September 30 (two to 21, inclusive) in accordance with the *Code of Virginia*.

**Child Find:** Each local education agency (LEA) has the responsibility to develop and maintain an active and continuing child find program designed to identify, locate and evaluate those children residing in the jurisdiction who are birth to age 21, inclusive, who are in need of special education and related services. The regulations describe target ages, populations, public awareness activities, and screening guidelines. Each local school division shall coordinate child find activities for infants and toddlers (birth to age two, inclusive) with the Part C local Interagency Coordinating Council.

**Child with a Disability:** A child evaluated in accordance with the provisions of this chapter as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disability (referred to in this part as “emotional disability”), an orthopedic impairment, autism, traumatic brain injury, another health impairment, a specific learning disability, deaf-blindness, or multiple disabilities who, by reason thereof, needs special education and related services. This also includes developmental delay if the local educational agency recognizes this category as a disability.

**Eligibility:** A school-based team comprised of a group of qualified professionals, the parent(s) of the child, and a Part C representative upon parent request, shall determine whether the child is a child with a disability and if the educational needs of the child warrant special education and related services. If a determination is made that a child has a disability and requires special education and related services, an Individualized Education Program (IEP) shall be developed. A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child. No single measure is to be used as the sole criterion. Tools and strategies that provide information regarding the child's involvement and progress in appropriate activities:

- Shall provide information about the child's physical condition, social or cultural background, and adaptive behavior;
- Shall include information provided by the parent(s);
- Shall include an observation in the child's learning environment (for the child less than school age, this is to be an environment appropriate for a child of that age that will provide authentic information regarding the child's development); and
- Shall include evaluation information from the Part C program as well as information from the Individualized Family Service Plan (IFSP), including:
  - A statement regarding natural environments, and
  - A component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills.

**Eligibility Team:** An eligibility team is established to conduct the activities to determine if the child meets criteria for eligibility for special education and related services. The team composition is to consist of the following at a minimum:

- (1) Local educational agency personnel representing the disciplines providing assessments;
- (2) The special education administrator or designee;
- (3) The parent(s);
- (4) A special education teacher;
- (5) A regular education teacher qualified to teach a child of the child's age (for a child of less than school age, an individual qualified to teach a child of the child's age); and
- (6) At least one person qualified to conduct individual diagnostic examinations of children, such as school psychologist, speech-language pathologist, or remedial reading teacher.

Parents are to be informed that the Part C Service Coordinator or other representative may be invited to the Eligibility meeting. Part C is to be invited to the meeting(s) if parent requests.

**IEP Team:** An IEP team is established to develop the child's IEP. The team composition is to consist of the following at a minimum:

- (1) The parent(s) of the child;
- (2) A regular education teacher, if the child is or may be participating in the regular educational environment;
- (3) A special education teacher or, if appropriate, a special education provider (for a child whose only disability is speech-language impairment, the special education provider shall be the speech-language pathologist);
- (4) A representative of the LEA who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities,

knowledgeable about the general education curriculum, and knowledgeable about the availability of resources of the local education agency;

(5) An individual who can interpret the instructional implications of evaluation results (this individual may be a member of the team serving in another capacity, other than the parent of the child); and

(6) At the discretion of the parent(s) or local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate.

Parents are to be informed that the Part C Service Coordinator or other representative may be invited to the Eligibility meeting. Part C is to be invited to the meeting(s) if parent requests.

**Referral from Part C:** In the case of a child who is receiving service from Part C and who is suspected of having a disability and will soon reach the age of eligibility for preschool services under Part B, with parent consent, Part C is to provide notification to the LEA for the area in which a child resides. This is done by transmitting each child's name, parent's name(s), address, phone number and birth date. This is to be done not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. Notification of children who will be age eligible for the coming school year is to be provided by April 1 unless there is a local interagency agreement specifying otherwise.

**School-Based Team:** A school-based team is established to review records and other performance evidence of the children referred through Part C, a screening process, school staff, the parent or parents, or other individuals and respond to the referral.

## Transition from Part C to B Steps

**Question:** What are the steps involved in making a smooth transition from Part C to B?

**Answer:** Transition Planning is an ongoing process. The ITC is to ensure that each child and family is offered individualized transition supports and services through the development of the Transition Plan. The Transition Plan must be developed at least 90 days and, at the discretion of all parties, up to 9 months before the child's anticipated date of transition. The meeting to develop the Transition Plan must meet the requirements of an Individualized Family Service Plan (IFSP) meeting and may be combined with the Transition Conference.

For children who are potentially eligible for Part B, the ITC provides notification to the LEA for the area in which a child resides unless the parent indicates in writing that they do not want the notification sent. This notification is considered a referral. This is done by transmitting each child's name, parent's name(s), address, phone number and birth date. This is to be done not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. Notification of children who will be age eligible for the coming school year is to be provided by April 1 unless there is a local interagency agreement specifying otherwise.

Additionally, the ITC is to convene the required Transition Conference between the sending ITC system providers, the family, and the local school division. The Transition Conference is to occur at least 90 days, or up to 9 months, prior to the child's anticipated date of transition to early childhood special education services under Part B.

The ITC and LEA must work together to ensure a smooth and timely transition.

## Transition Conference

**Question:** What is a Transition Conference?

**Answer:** The Transition Conference is a meeting between the sending Infant & Toddler Connection system providers, the family, and the LEA. A Transition Conference is required, with parent approval, for all children who are potentially eligible for Part B preschool services. The Transition Conference is coordinated by the local ITC and:

- Must be at least 90 days and can be up to nine months before the child's anticipated date of transition;

- Must meet the requirements of an Individualized Family Service Plan (IFSP) meeting;
- Must include the family;
- Must include a Part C representative;
- Must include an LEA representative who is knowledgeable about services available in ECSE programs (any staff familiar with the ECSE program that can explain the program to the family); and
- May be combined with a meeting to develop the Transition Plan.

**Question:** Please define “LEA participation in the Transition Conference.” Is a specific person, such as the special education director, required to attend and is attendance required in person?

**Answer:** “LEA participation in the Transition Conference” means that a representative from the LEA who is knowledgeable about the services available in the local school division participates in the Transition Conference. The LEA representative does not need to be the Special Education Director or any other specific position. The key is that the LEA representative is able to provide information and answer questions regarding the continuum of supports and services available through the school division. This may be the Early Childhood Special Education (ECSE) teacher, a speech therapist or other related service provider who sees children in the ECSE program, or a child find person for the school division. While a face-to-face meeting among all participants is preferable, participation by teleconference and/or videoconferencing are acceptable methods as well. In that rare instance when the local school division representative cannot participate in any of these ways, then the local school division must provide written information about early childhood special education services to the family and a contact name and phone number where the family may call with questions about school services.

The transition section of the IFSP documents who participated in the Transition Conference. The Part B representative will be documented. If a Part B representative does not attend, contact notes should document the invitation to attend.

**Question:** Can the Transition Conference be a group meeting including several families?

**Answer:** The Transition Conference must be an individual conference for each family, with the family’s approval, for each child who is expected to transition to Part B. The purpose of the Transition Conference is to help parents make an informed decision about ALL the available options within their community for their child after eligibility with Part C ends. Participants of the Part C Transition Conference should include representatives from the programs the family wishes to learn more about (e.g., Part B, Head Start, daycare centers, church preschools, etc.) to explain their services; eligibility requirements, answer the parent’s questions, etc.

As transition planning begins at the initial IFSP and continues at subsequent IFSP meetings, the Service Coordinator, through conversations with the family, will have an idea of which transition destinations the child might be eligible for or parents are interested in learning more about to identify those representatives to invite to the Transition Conference. Whether a Transition Conference is held with all representatives present or individual meetings with the representatives is part of the individualized transition planning process that is developed in conjunction with the family.

**Question:** If parents choose not to participate in a Transition Conference, what should Part C personnel tell the family about what will happen in Part B, including options for services?

**Answer:** The Part C service coordinator should provide the family with a contact person at the school division to answer any questions they have about eligibility and school services.

**Question:** What should Part C personnel tell families that have additional questions after attending the Transition Conference?

**Answer:** Part C should check with the school division early childhood special education program or special education director for a contact person who will be able to answer the parent's questions. The school division can supply a name and contact information for the families who have additional questions.

### **Referral to Part B, Special Education**

**Question:** When is a referral to Part B made?

**Answer:** A referral is made for any child suspected of having a disability and will soon reach the age of eligibility for preschool services under Part B. Unless the parent opts out, Part C is to provide notification (referral) to the LEA for all children potentially eligible for Part B. This is to be done not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. Notification of children who will be age eligible for the coming school year is to be provided by April 1 unless there is a local interagency agreement specifying otherwise.

**Question:** What is considered a referral? Must it be sent through the mail? What information is required to qualify as a referral?

**Answer:** Notification from Part C of identifying information and a request for an evaluation to determine eligibility for special education services of a child with a suspected disability given to the special education director or designee of the school division is considered a referral. The initial information can be provided through the mail, fax, email, or over the phone. The date the special education director or their designee receives the information is considered the start of a referral and begins the 65 day timeline towards eligibility. Additional information such as the IFSP, most recent evaluations from the Part C program, therapy notes, etc. need to be provided to the school division as soon as possible but are not required in order for the 65 day timeline to begin.

**Question:** What does a referral or notification require?

**Answer:** The referral requires only the child's name, birthdate, parent(s) name and contact information. Even if assessment information and the IFSP are sent later, the referral date is the date the child's name and required notification information is received by the special education administrator and the timeline begins.

**Question:** Who can make a referral to Part B?

**Answer:** Part C personnel, parents, doctors, care providers, and other family members can make referrals to Part B.

**Question:** What constitutes the referral date to Part B? Is it the date Part C makes (sends) the referral form and information or the date the family signs the consent to exchange information form? Define "referral is received".

**Answer:** All referrals from Part C are considered referrals for determining special education eligibility and considered the start date for the 65 day timeline, unless it is specifically stated that a screening is being requested. The date the referral is received by the special education director or the designated person in the local school division starts the process. If the referral is sent via US Mail or fax, it is the date the paperwork is received by the designated person, not the date the information was sent. If the referral is made verbally, it is the date the referral is made and received (which is the same) over the phone or face to face. School divisions should have a mechanism in place for an alternative person to receive the referrals when the designated person is absent.



**Question:** Is the referral from Part C a referral to a child study team or a referral for evaluation?

**Answer:** It is a referral for evaluation to determine if the child is eligible for services. Referrals from Part C are considered a referral of a child with a suspected disability (who may be eligible under Part B) and should be evaluated under Part B, unless information is stated otherwise (i.e. request for a screening). However not all referrals have to go through the entire eligibility process for Part B services. School divisions may have the child study team review the information provided from Part C within the 65 day timeline for the eligibility meeting. Upon review of the available information, the child study team may decide, with parent input and agreement, that the referral will not proceed past the child study team meeting. The child study team could decide to screen the child, follow the child for a period of time, or decide that additional evaluations are not needed based on the information from the family and Part C.

**Question:** What impacts when the referral is sent to the local school division?

**Answer:** Unless the parent opts out (in writing on the IFSP), Part C is to provide notification to the LEA. This is to be done not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. Notification of children who will be age eligible for the coming school year is to be provided by April 1 unless there is a local interagency agreement specifying otherwise.

Additionally, if the parent requests that the information be sent earlier or the parent initially opts out of notification at the established date and changes their mind, notification is sent within a reasonable time period of the parent request.

**Question:** If Part C requests a screening, is this a request for referral to Part B?

**Answer:** A request for screening is not considered a referral for evaluation. A request for screening does not start the 65 day timeline. The Part C person making the referral must be clear about whether the referral is for screening or is a referral for evaluation and the Part B person receiving the request also has a responsibility to be sure that they are clear about the purpose of the request.

**Question:** Is it okay for the school division to consider referrals from Part C, except those with the most severe delays, as referrals for screening, and thus not start the 65 day timeline?

**Answer:** It is not acceptable to consider a referral from Part C as a referral for screening unless the Part C system has specifically indicated that the referral is for screening. All referrals from Part C should be considered by Part B to be a

referral of a child with a suspected disability and begin the process and the 65 day timeline. The referral can go to a child study team meeting to review the referral information as part of the process within the 65 day timeline.

**Question:** Some referrals from Part C are not going through to eligibility. Instead the child study team may recommend participation in a preschool program that observes, “intervenes”, and screens that child. The child remains in Part C during this time. Is this allowed?

**Answer:** School divisions have the right and responsibility to review all referrals for special education evaluations to determine whether they recommend the special education evaluation or not. A school division can propose that the team screen, observe or even provide interventions and collect data with regard to the student’s response to those interventions, prior to a referral for a special education evaluation. If the family agrees to this and consents as such, then this action is appropriate.

If, as part of a pre-referral strategy, the school division proposes a preschool program for children without disabilities that the school division operates and it does not provide FAPE (free and appropriate public education), the child can remain in Part C and receive services.

**Question:** Who is responsible for referring and evaluating children considered homeless?

**Answer:** The programs in the locality where the family last lived, before becoming homeless, are responsible for the process. Even if the family is in temporary housing in a county nearby, the last county/city of residence is responsible.

**Question:** What if the LEA does not get the referral in sufficient time for an IEP to be in place for the start of school?

**Answer:** There may be circumstances beyond the control of both Part C and Part B staff that might make it challenging to complete the process for determining eligibility and IEP development in order for the child to start on the first day of school. For example, the parent who has previously opted out of a referral to the school division changes his mind. The school division should make every effort to proceed through the process to get the child in school as soon as possible. The school division then must meet the 65 day timeline for eligibility.

**Question:** "Part B special education directors have asked that Part C not accept new referrals for children who are 2 ½ or older. They have requested that these families be referred directly to Part B. The reason they are giving is that if a child

is found eligible for Part C the schools are obligated to complete the child's referral/IEP process by the child's third birthday, no matter when the school division received the referral. My understanding is that Part C is required to accept and follow up on all referrals and cannot refuse a referral. Part C service coordinators inform families of their option to pursue Part C or to be referred directly to Part B. Families are informed that they can begin with Part C and that the referral to Part B can/will be made while the child is receiving Part C Services. Please clarify this."

**Answer:** For children who will soon be aging out of Part C services, Part C and Part B should work together during the eligibility determination process so assessment will not be duplicated and a smooth transition can occur. According to OSEP, when the child's age precludes completing the Part C process (i.e., time to complete the determination of eligibility, assessment for service planning, initial IFSP, and begin services before the child is no longer age eligible for Part C services), families may be directly referred to Part B. This has been further clarified as less than 45 days before the child's birthday or start of school.

For children who are referred to Part C close to the age where they will transition (at least 45 but less than 90 days before age eligibility for Part B), but for whom the Part C process can be completed, Part C should inform parents of their options for Part B or Part C. If a family chooses to start with Part C and is found eligible, then a transition plan must be developed. Notification occurs as soon as possible unless the parent opts out and a Transition Conference may be held but is not required.

In either of these scenarios, Part B may receive a referral that does not allow completion of all required eligibility activities, including development of the IEP prior to the child's third birth date. This is an allowable reason when reporting data for Indicator B12 for the child not to have an IEP completed by their third birthday. The parent choices related to and date of notification/referral to the LEA is documented in Section VII of the IFSP and demonstrates the reason for the delay – parent choice.

**Question:** If screening of a child referred from Part C to Part B indicates that there is not a need for further evaluation for a child, is it acceptable to recommend to the parents that they request a "re-screen" in 6 months rather than proceeding immediately with the evaluation/eligibility determination process?

**Answer:** If the Part C system SPECIFICALLY states that the referral is for screening, then recommending a re-screen in 6 months is allowable. However, if a child is referred to Part B by Part C for an evaluation, the child should begin the evaluation process to determine eligibility (with the 65 day timeline starting at the time the referral is received by the designated school division person). This could include going to a child study team meeting to review information from the family

and Part C. The child study team could recommend screening, observation, or even provision of interventions and data collection with regard to the student's response to those interventions, prior to a referral for a special education evaluation. If the parent agrees to the recommendation, the established 65 day timeline is stopped and the formal timeline that began with the referral for a special education evaluation is ended.

**Question:** What happens when a child is receiving services through Part C but the parent refers the child to the school and does not go through the Part C transition process?

**Answer:** The referral is handled by the school division the same way as any other parent referral. If more information is needed from Part C, the parent would sign a release of information. This would not be considered a referral from Part C.

**Question:** If Part C refers a child and the IFSP is older than 5-7 months, does Part C provide an update (new testing) for Part B?

**Answer:** What information is shared should be agreed upon locally and documented in the local interagency agreement. Ongoing assessment is documented in Part C contact notes, and this information can be used to identify current functioning. With parent consent, these contact notes could be shared with the local school system to provide updated assessment information.

### **Age of Referral**

**Question:** Is it okay to wait until the child turns two years old before starting the transition process (Transition Conference, Part B eligibility determination, IEP meeting)?

**Answer:** This depends on when the family would like the child to transition to school division services. In Virginia, children with disabilities who have an IEP are age eligible to start school at the beginning of the school year if they are two years old on or before September 30. The transition process must be started at least 90 days before the start of the school year in order for the child to be ready to start school on the first day of school, even if the child will not yet be two years old on that first day of school or not yet two when referred.

**Question:** When are school divisions required to accept children who meet the local division Part B eligibility criteria?

**Answer:** Children who are two by September 30 and who meet eligibility requirements are expected to have the eligibility and IEP process completed in order for the child

to start the first day of the school year. Children in Part C who are eligible for Part B and whose parents elect for them to continue in Part C until they are three are expected to have an IEP in place so the child can start Part B by their third birthday. Some local divisions choose to accept Part B eligible children anytime throughout the year after they turn two years old.

**Question:** Given the timeline requirements for Part B eligibility and development of the IEP, how can rolling enrollment not be an option for a school division?

**Answer:** The terminology “rolling enrollment” only pertains to children turning two after September 30. Admission throughout the school year for children reaching their third birthday is the standard. It is a local decision whether to serve children who turn two after Sept. 30 for that school year.

### **Part B Evaluation / Eligibility / Eligibility Meeting**

**Question:** Part C has an eligibility category (diagnosed condition with a high probability of resulting in developmental delay) that automatically qualifies a child for early intervention services. Is there anything similar in Part B? For example, children who are deaf or hard of hearing are automatically eligible for Part C. Is this true for Part B?

**Answer:** In Part B, there is no automatic eligibility. Children must be found to (1) meet the school division’s criteria for a child with a disability, (2) demonstrate that the disability significantly impairs the child’s ability to participate in age appropriate activities or meet the State standards their same aged-peers must meet, and (3) require special education services in order to assist the child to participate in age-appropriate activities or meet the standards that apply to their same aged peers. The definition of the disability category of developmental delay does include having a diagnosed condition.

**"Developmental delay"** means a disability affecting a child ages two by September 30 through six, inclusive: (34 CFR 300.8(b); 34 CFR 300.306(b))

1. (i) Who is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development, or (ii) who has an established physical or mental condition that has a high probability of resulting in developmental delay;
2. The delay(s) is not primarily a result of cultural factors, environmental or economic disadvantage, or limited English proficiency; and
3. The presence of one or more documented characteristics of the delay has an adverse

affect on educational performance and makes it necessary for the student to have specially designed instruction to access and make progress in the general educational activities for this age group (8VAC20 81-10).

**Question:** Can information from the IFSP be used by Part B to determine a child's eligibility for Part B?

**Answer:** Information from Part C, including the child's IFSP and any recent assessments etc., shall be considered when making the determination about whether or not a child is eligible for Part B services, provided the parent signs consent in a timely fashion in order for the school division to access the records. The eligibility/IEP team will likely supplement the available information with additional assessments and/or observation(s) of the child. The LEA has the authority to determine what evaluations and information is needed based on the reason for the referral and the eligibility guidelines and procedures (including testing procedures).

**Question:** Referrals from Part C for full evaluations do not always have the same testing components completed for the child. Child study teams sometimes decide to do an evaluation for suspected speech or language impairment, even though the referral clearly requests a full evaluation.

**Answer:** A request for a full evaluation is a request for a diagnostic evaluation to determine eligibility for services under Part B rather than a screening. It does not require specific or multiple assessment components. A review of existing information from the latest IFSP and other Part C sources could be used. The LEA has the right to re-evaluate in any given area should they choose to do so for evaluation purposes. The IEP team has the responsibility to determine the necessary components of the evaluation, as noted above. The scope and depth of the evaluation is determined with the parent who may choose to agree or disagree with the final recommendation. Given the above information, doing just a speech-language evaluation based on all the information gathered is acceptable. If the only suspected disability is a speech-language impairment, in addition to speech and language assessments, there should also be an educational screening to see if other component evaluations are needed.

**Question:** How is it determined for a child from a family who speaks two languages whether their delays are a result of the dual language environment or resulting from other causes?

**Answer:** A family study would be needed to determine if the language (other than English) is the primary factor for the delay. Evaluations are required to be conducted in the child's first language. Should the school division initiate a special education evaluation, the school division will administer an evaluation for special education services in the language and form most likely to yield accurate information on

what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to provide or administer. Observing the child's non-verbal communication skills, play skills, and interactions with others can be used along with the other assessments to help determine the "real development issues." Keep in mind that special education and/or speech-language therapy services are provided for a child with a "disability" and in need of specialized education services. English language learners do not necessarily fall in this category solely because they are low language users. School divisions should use their English as a Second Language (ESL) programs to address the needs of English language learners (ELL) and collaborate with special educators when serving ELL identified disabilities.

**Question:** Who is required and who may attend eligibility/IEP meetings?

**Answer:** The LEA must ensure that the eligibility committee and IEP team for each child with a disability includes:

- The parent(s) of the child;
- At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- At least one special education teacher of the child, or where appropriate, at least one special education provider of the child;
- At least one representative of the public agency (who has certain specific knowledge and qualifications);
- An individual who can interpret the instructional implications of evaluation results and who may also be one of the other listed members;
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability.

### **Individualized Education Plan (IEP) Development:**

**Question:** This is the first time we have heard that the eligibility meeting is the first IEP meeting. The evaluator must be at the eligibility meeting, but not at the IEP development meeting. Isn't this correct?

**Answer:** The eligibility meeting is the first IEP TEAM meeting. Persons knowledgeable in the fields of the evaluations must be at the eligibility meeting to present the evaluation results, specialty area information, and recommendations for eligibility for services. If services in that field will need to be provided, a representative must also be at the initial IEP development meeting or have discussed proposed goals with the family prior to the meeting.

**Question:** Is Part C invited to what we would have called the initial IEP (eligibility determination) and IEP development meeting?

**Answer:** Yes

**Question** If a child goes through the transition process from Part C to Part B prior to their 3<sup>rd</sup> birthday and the family chooses for the child to continue Part C services until the child's 3<sup>rd</sup> birthday, can the IEP start date reflect the child's 3<sup>rd</sup> birthday?  
Example: The eligibility meeting is held in January and the child turns 3 in April, does the child have to start Part B as soon as eligibility is determined even if the family wants to wait?

**Answer:** The IEP must be written within 30 calendar days of the eligibility for Part B committee meeting. The IEP implementation date can be the child's birthday, the first day of school, or a date the family and IEP team decides on. Services should start as soon as possible following development of the IEP unless the family requests a later start date as illustrated in your example.

### **Timelines**

**Question:** Please clarify the "90 day timeline" for the Transition Conference, including how it applies for children who enter school if they are age two by September 30, as well as for children who are accepted at age two throughout the year for school divisions with "rolling admissions"?

**Answer:** An individual Transition Conference between the family, Part C and the local school division must be held, with parent approval, from 9 months to at least 90 days before the child's third birthday or the date on which the child is eligible for early childhood special education services under Part B. By Virginia regulation, children are eligible for early childhood special education services at the start of the school year in which the child turns 2 by September 30. If the family wishes the child to transition to Part B at the start of the school year in which the child turns 2, then the Transition Conference must be held at least 90 days before the start of the school year or the date on which the child is eligible for early childhood special education services under Part B.

**Question:** Please clarify the "65 day timeline."

**Answer:** All referrals from Part C are considered referrals for determining special education eligibility and considered the start date for the 65 day timeline, unless it is specifically stated that a screening is being requested. The date the referral is received by the special education director or the designated person in the local school division starts the process, thus starting the 65 day timeline. All



evaluations are to be completed and decisions about eligibility are made within 65 business days of the receipt of the referral by the special education administrator or designee, including if the special education administrator or designee routes the referral to the school-based team for review and action.

The referral process presumes parents allow timely notification/referral from the Infant and Toddler Connection to the local school division. If parents choose to refer their child at a later date, the local division has 65 days from the time of the receipt of the referral by the Special Education Director or designee to complete the evaluation and eligibility process. If the child is determined eligible, the school division has 30 calendar days to develop the IEP. Services must be provided in accordance with the IEP. This does not imply that the school division has to use the full amount of time, but may do so if needed.

**Question:** If a parent calls the school division, does the parent call start the 65 day timeline or is the referral from the parent considered a request for screening rather than an official referral?

***Answer:*** When a parent calls, the school division person receiving the call must clarify with the parent that this phone call is a request for an evaluation to determine eligibility for Part B services for a child with a suspected disability or a request for a screening. If the parent does not want a full evaluation, it is acceptable to tell the parent to ask for a screening or a child study team meeting.

**Question:** If a parent calls and makes a statement “I’m concerned about my child”, is that a time to screen and when does the 65 days start?

***Answer*** When a parent calls and states that they are “concerned,” the LEA designee receiving the call should try to get more information from the parent to assist in the determination of whether it is a call for a screening or full evaluation. If a parent states that they want an evaluation, not just a screening, then the 65 day timeline starts.

**Question** Can a school division start the 65 day timeline when a parent registers a child instead of when they receive the referral from Part C?

***Answer*** No. The 65 day timeline starts when the designated person receives the referral. The referral can be in person, via mail, fax, or phone. Requesting that a parent register a child can be part of the 65 day process, however it cannot delay the start of the evaluation process and eligibility meeting. If the school division does not have the identifying information, they can wait to enroll the child, but you CANNOT delay eligibility determination, IEP development and implementation if the child is found eligible for Part B services.

**Question:** Does the timeline stop while the school division awaits required paperwork from the family (such as proof of immunization, legal residence, etc.)?

**Answer:** No. The eligibility meeting must be held within the 65 days. If the school division is waiting for paperwork that will impact the possible eligibility decision, the school division should have an eligibility meeting and find the child eligible or not based on the available evaluation information. This meeting can be postponed if the family and school division agree to wait for the missing information (8VAC20-81-60 B. 1. g.). Paperwork needed for enrollment or registration is not required for eligibility and cannot delay the eligibility determination.

**Question:** How does summer impact the 65 day timeline? Are referrals from Part C received at any time during the calendar year?

**Answer:** School divisions accept referrals at any time of the year. Summer months are considered the same as other months of the school year and the 65 day timeline is the same during the summer – business days (Monday to Friday), except for state and federal holidays.

**Question:** What about school divisions that elect to observe 4-day work weeks during the summer? Does that mean that instead of counting 5 days/week as part of their 65 days, they count 4?

**Answer:** The 65 day timeline is based on a standard workweek. Thus the 65 day timeline includes 5 days/week even for school divisions that elect to observe 4-day workweeks in the summer.

### **IEP Timeline**

**Question:** How long does the school division have to develop the IEP?

**Answer:** The team has 30 calendar days to write the IEP.

**Question:** Please clarify the dates required on the IEP.

**Answer:** The IEP date is the date of the IEP meeting. The **review date** of the IEP must be within a year of the initial IEP (at least by the anniversary of the IEP meeting to develop the IEP). The IEP team can specify a date sooner than one year for the review. Services on the IEP begin according to what the IEP team decides, when transportation can be arranged, and/or when the child is age-eligible. The IEP meeting may be in May and the child will begin services at the beginning of the

up-coming school year. In this example, the services will start the first day of school and the IEP review date will be in May. If the child is to begin during the school year and the school division is providing transportation, services may start two weeks after the IEP meeting. This allows transportation time to arrange for pick-up, a wheelchair lift bus, or a new route. If the family chooses to transport the child, the services could start as soon as the classroom teacher is notified and the family registers for school.

**Question:** Is there a limit to how much time can lapse between IEP development and start date of services?

**Answer:** Federal regulations do not specify an exact period of time for when services must start following the IEP meeting. 34 CFR 300.323 (c) (2) states “*As soon as possible following the development of the IEP, special education and related services are made available to the child in accordance with the child’s IEP.*” The public schools do have a reasonable amount of time to set up transportation for the child. If the child is eligible to start at the beginning of the school year and the IEP is held in June, the start date would be the first day of school.

### **Documentation**

**Question:** What would a transition “plan” look like; both the document and content?

**Answer:** The Transition Plan is an outline of the steps that will be taken in the process of helping the child and family move from the Part C system to Part B (or to other community services, as appropriate, for children who do not need Part B services). The Transition Plan is documented in Section VII of the IFSP.

**Question:** Does it make sense to develop a Transition Plan during the individual Transition Conference? Doesn’t the family need time to think about what they just heard?

**Answer:** Transition planning is an ongoing process. The meeting to develop the initial Transition Plan may but is not required to be combined with the Transition Conference.

**Question:** Is it acceptable to document the date the Transition Conference was held, who attended, etc. in contact/progress notes?

**Answer:** The date of the meeting and who attended must be documented in Section VII of the IFSP.

**Question:** Can Section IX of the IFSP be used to document approval for the Transition Conference?

**Answer:** Verbal approval from the family for the Transition Planning Conference is sufficient. Document the family's approval/disapproval in a contact note and by checking the appropriate box in Step 4b of Section VII on the IFSP

**Question:** Why document parental consent for the individual Transition Conference? Doesn't the parent coming to the conference mean they consent?

**Answer:** Federal Part C regulations require the conference be convened with the approval of the family. While the parent's attendance at the conference may seem to imply that they have approved, there is no documentation to support that the family received the information necessary to make an informed decision about whether or not they gave approval for the conference. Options for documenting parent approval for the Transition Conference are specified in the answer directly above.

### **Interagency Agreements**

**Question:** What is an Interagency Memorandum of Agreement?

**Answer:** The Virginia Interagency Memorandum of Agreement Among the Agencies Involved in Implementation of Part C of IDEA, documents the understandings and commitments of participating agencies in the Virginia statutory requirements related to Part C. The Memorandum of Agreement must be upheld by the local Infant and Toddler Connection (ITC) and Local Education Agencies (LEA) as they work to transition children from Part C to Part B.

**Question:** What is a local interagency agreement?

**Answer:** Since local ITCs and LEAs must work together to develop understandings and procedures to ensure smooth and timely transitions, local interagency agreements that specify roles and responsibilities for accomplishing the transition planning and activities required under Part C and Part B of IDEA are required. The agreements should be reviewed and updated, as needed but should be reviewed at least annually. Either the local ITC or LEA can initiate development or revision of the agreement.

## Reporting Indicator 12 for Part B

**Question:** What is Indicator 12 for Part B?

**Answer:** The U.S. Office of Special Education Programs (OSEP) requires states to report the *percentage of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an Individualized Education Program (IEP) developed and implemented by the beginning of the school year if they turn age two by September 30 of that school year or by their third birthday.*

**Question:** How is Part B, Indicator 12 calculated and are there legitimate reasons why a school division may not meet a timeline that result in the exclusion in the final calculation?

**Answer:** For the reporting period, school divisions are to report the children served and referred from Part C to Part B for eligibility determination. Based on this number, the percentage of children who have an IEP developed by their third birthday is calculated. The OSEP recognizes that not all children referred will be found eligible, thus not have an IEP developed. Further, OSEP recognizes that there are reasons that an IEP may not be developed by the child's third birthday that are beyond the control of the ITC and/or LEA. Therefore, there are a number of exceptions that result in the exclusion in the final calculation. These include:

- Children not determined eligible due to withdrawal of parental consent, the child moved, or any extenuating circumstance;
- Children that did not meet the time line because the parent repeatedly failed or refused to make the child available;
- Children for whom parent refusal to provide consent caused delays in evaluation or initial services (e.g., referred less than 65 business days prior to age of eligibility);
- Children who were referred to Part C less than 90 days before their third birthdays; or
- Children determined to be NOT eligible and whose eligibility was determined prior to their third birthdays.

**Question:** Aren't there other reasons why a timeline may legitimately not be met?

**Answer:** No. The list above reflects the reasons OSEP has provided and include reasons beyond the "control" of the school system. Reasons such as inclement weather or poor communication with an ITC are NOT approved. **It is imperative that the local ITC and school division work together to communicate effectively and develop procedures to ensure smooth and timely transitions for all children.**

**Question:** If a child is not referred to school until his/her third birthday because the family did not allow referral earlier, will this be counted against the school division/local early intervention system for federal monitoring purposes?

**Answer:** No. Since the delay is attributable to exceptional family circumstances or other circumstances beyond the local Part C or school division's control, this child's situation would not be counted against the school division or early intervention program for the purposes of data collection to be reported in the Annual Performance Report. The parent choices related to and date of notification/referral to the LEA is documented in Section VII of the IFSP and demonstrates the reason for the delay – parent choice.

**Question:** Are schools required to document specific reasons beyond those allowed by OSEP when Part B, Indicator 12 was not met?

**Answer:** Local school agencies must collect and document the specific reasons for not meeting Part B, Indicator 12. They must also document the number of days the timeline was missed. Special education directors or the division data managers have a spreadsheet with several in-depth reasons listed. Divisions are to add narrative in the comments section to explain why timelines were not met.