**VIRGINIA DEPARTMENT OF EDUCATION**

**TECHNICAL ASSISTANCE RESOURCE DOCUMENT**

**Indicator 12: Part C to Part B Transition**

**Virginia Department of Education**

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**Preface**

States receiving funds through the Individuals with Disabilities Education Act (IDEA, 2004) must comply with the regulations provided in Part B of the IDEA. Part B lists 20 indicators of compliance and effectiveness on which states collect and report data to the Office for Special Education Programs (OSEP). States must evaluate their efforts to implement the requirements annually by developing and submitting a State Performance Plan/Annual Performance Report (SPP/APR).

The Preschool Grants Program of IDEA (Section 619 of Part B), outlines requirements for the state education agency in each state to support the delivery of special education and related services to children with Individualized Education Programs (IEP) ages three through five. The *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (2010) provides state-specific regulations and expands the delivery of special education and related service to children with IEPs who are age two by September 30.

Children with disabilities ages three through five are included in many of the reporting indicators with three indicators being specific to 619. Indicator 12, a compliance indicator, requires that children who participate in early intervention services under Part C of the IDEA and who will participate in preschool programs under Part B of the Act experience a smooth and timely transition to early childhood special education programs. OSEP requires states to include in their SPP data the percentage of children referred by Part C and found eligible for Part B who have an IEP implemented within the designated timeline.

This document was developed for the purpose of providing technical assistance to support the effective transition from Part C to Part B and to provide information for reporting Indicator 12 data to the Virginia Department of Education. It is intended to assist teams of educators, parents, and early interventionists as they work to ensure children have a smooth and timely transition. This document provides information on the regulatory requirements and best practices and should be used in conjunction with existing state regulations and federal laws. It is not intended to replace any existing regulation or policy.

**Indicator 12: Part C to Part B Transition Technical Assistance Document**

**Introduction to Indicator 12**

The *Individuals with Disabilities Education Act* (IDEA; 2004) governs how states and public agencies provide early intervention, special education and related services to children. Part C of IDEA provides the regulations for early intervention to infants and toddlers from birth to age three. Part B of IDEA provides the regulations for special education and related services for school-aged children with disabilities (ages three-22 years). The *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (2010) provides state-specific regulations and expands the delivery of special education and related service to children with Individualized Education Programs (IEP) who are age two by September 30.

States receiving funds through the IDEA must comply with the regulations and report data on indicators that measure both compliance and effectiveness to the Office for Special Education Programs (OSEP). States are required to submit a State Performance Plan (SPP) which includes baseline data, targets, and improvement activities for all data indicators. Reports on the state-level data and progress toward meeting the state targets are described in the Annual Performance Report (APR).

Three of the twenty data indicators required by OSEP specifically measure a state’s performance for children ages three through five with IEPs. Indicator 12 is the indicator that measures a state’s compliance with providing a smooth and timely transition for children who received services under Part C of IDEA and who will participate in preschool programs under Part B of the Act. Specifically, OSEP requires states to report *the percentage of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays*.

Indicator 12 is a compliance indicator, and therefore has a 100 percent compliance target. The OSEP’s expectation is that states will meet the transition timeline with **100 percent** of all children who transition from Part C to Part B.

**Key Components of the Transition from Part C to Part B**

**Agencies**

The Infant and Toddler Connection of Virginia (Part C of IDEA)[[1]](#footnote-1) is managed by the Virginia Department of Behavioral Health and Developmental Services (VDBHDS). Early Childhood Special Education (Part B of IDEA) is managed by the Virginia Department of Education (VDOE). 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.[[2]](#footnote-2)

There are 40 local Infant and Toddler Connections (ITC) throughout Virginia that provide early intervention supports and services to infants and toddlers from birth through age two who are not developing as expected or who have a medical condition that can delay normal development. ITCs are often part of a Community Service Board but may be located in other agencies or part of an institute of higher education. Each ITC collaborates with specific local education agencies (LEA) and provides referrals to the LEA where the child/family resides.

In addition to VDBHDS and VDOE, there are other State agencies that collaborate with Part C. 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 *Virginia Interagency Memorandum of Agreement* outlines the transition agreement between the DBHDS and VDOE. The section of the [Memorandum of Agreement](http://www.doe.virginia.gov/early-childhood/disabilities/transition/index.shtml) that provides the transition agreement between the DBHDS and VDOE can the can be found on the DOE website.

Each locality is required to also have an interagency agreement. The *Local Interagency Agreement* outlines the responsibilities of the local ITC and LEA. Since local ITCs and LEAs must work together to develop understandings and procedures to ensure smooth and timely transitions, the *Local Interagency Agreement* must specify roles and responsibilities for accomplishing the transition planning and activities required under Part C and Part B of IDEA. It is critical for ITCs and LEAs to be aware of these local agreements and to consider the effectiveness of such agreements and modify as needed. At a minimum, the *Local Interagency Agreement* should include:

* A clear definition of the roles and responsibilities for transition;
* EI & LEA timelines;
* procedures and timelines for notification/referral, including late referrals;
* procedures to coordinate the exchange of information between agencies;
* procedures for children whose third birthdays occur during school breaks;
* procedures for the Transition Conference, including timing and location; and
* responsibilities for attending the Transition Conference.

**Child’s Age**

In Virginia, children who reach the age of two on or before September 30 of any given year and who meet Part B eligibility requirements as defined in the *Code of Virginia* and in accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* are eligible to receive special education and related services through their local school divisions. Notwithstanding the availability of a free appropriate public education (FAPE) at age two, a child remains eligible to receive Part C services until his/her third birthday. Therefore, if a child turns two on or before September 30, parents may choose to have their child remain in Part C or transition to Part B. The LEA can determine whether to serve children who turn two after September 30 for that school year. The terminology “rolling enrollment” pertains to those children turning two after September 30. If the transition does not take place at age two, children eligible for Part B preschool services are to transition from Part C to B and have an IEP in place by their third birthday. Admission is to take place throughout the school year for these children.

According to the *Virginia Interagency Memorandum of Agreement Among the Agencies Involved in Implementation of Part C of IDEA,* VDBHDS is to maintain financial responsibility and pay for supports and services listed on the Individualized Family Service Plan (IFSP) until the child’s third birthday or the earlier date on which the child begins Part B services (e.g., the beginning of the school year in which the child is two years old by September 30), to the extent those services are not otherwise paid for by public or private insurance, family fees or other third party payor sources.  Additionally, VDBHDS remains financially responsible for two year olds who choose not to transition to Part B until their third birthday or who initially transition to Part B but choose to return to Part C prior to their third birthday. The VDOE is to accept financial responsibility and pay for all special education and related services, as listed on an IEP, to a Part B eligible child beginning on the child’s third birthday or the earlier date on which the child is eligible for and the parent chooses to begin Part B services (e.g., the beginning of the school year in which the child is two years old by September 30).

**Part C Eligibility**

The eligibility requirements for Part C and Part B are different and can be found in the respective regulations. A child and family may receive early intervention supports and services if the child is: up to three years old and has certain levels of developmental delay, differences in development and/or a diagnosed condition. A child with a developmental delay or differences in development is not developing like other children his age. The delay or difference can be in one or more of the following areas:

* Thinking, learning, and playing;
* Understanding and using sounds, gestures and words;
* Taking care of one's self, including eating and dressing;
* Moving, seeing, and hearing; or
* Developing relationships

A child is eligible who has a diagnosed condition that will very likely cause a developmental delay. This includes:

* Genetic disorders, such as Down syndrome,
* Cleft lip and/or palate,
* Neonatal Intensive Care Unit (NICU) stay of greater than or equal to 28 days,
* Gestational Age of 28 weeks or less,
* Autism Spectrum Disorder, or
* Vision and/or hearing loss.

**Part B Eligibility**

It is required for EI to refer any child who is “potentially eligible” for special education and related services unless a family opts out. Potentially eligible for Part B is defined as any child expected to still need services after they exit EI. The child’s Individualized Family Services Plan (IFSP) team, which includes the parents, determines whether the child is potentially eligible for Part B. Because of the differences in eligibility criteria, some children served by EI will not be referred to Part B.

For a child to be eligible for Part B services, he or she is to be evaluated in accordance with the provisions of the *Virginia Regulations* and determined to haveat least one of the following disabling conditions and is in need of special education and related services:

* Developmental delay (if the local educational agency recognized this category of disability),
* Intellectual disability,
* Hearing impairment (including deafness),
* Speech or language impairment,
* Visual impairment (including blindness),
* Emotional disability,
* Orthopedic impairment,
* Autism,
* Traumatic brain injury,
* Other health impairment,
* Specific learning disability,
* Deaf-blindness, or
* Multiple disabilities.

**Steps of a Smooth and Timely Transition**

**Transition Conference**

With parent consent, a Transition Conference is required if the child is potentially eligible for Part B preschool services and is a critical component of the transition planning process. The Transition Conference is designed to help parents better understand the programs and services that may be available for their child. It is for parents to learn more about the services provided by the LEA and how eligibility is determined. 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 Early Childhood Special Education (ECSE) programs; and
* May be combined with a meeting to develop the transition plan.

The LEA representative who attends the Transition Conference can be any staff familiar with the ECSE program and can explain the program to the family. Only a person from the LEA can really speak effectively about the program provided for children in ECSE and can answer specific questions a parent might have. It is helpful for the LEA to have materials to provide the parents that describe the program as well as the steps of eligibility.

**Initial Referrals**

In the case of a child who is potentially eligible for Part B 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 where the child resides. This is known as a referral and is done by transmitting each child’s name, parent’s name(s), address, phone number and birth date to the child’s LEA of residence. A notification will not be completed if a parent disagrees in accordance with the opt-out procedures specified in the Infant & Toddler Connection of Virginia Practice Manual.

In accordance with *Virginia Regulations*, the referral is to be completed not fewer than 90 calendar days before that child reaches the age of eligibility for Part B. The *Virginia Memorandum of Agreement* between VDBHDS and VDOE further specifies timelines to ensure the referral is given with enough time for the LEA to complete the Eligibility process within required timelines. Under the *Memorandum of Agreement*, the referral must be made no later than April 1st in a given year for a child who is two by September 30 or at least 6 months prior to the child’s third birthday.

The ITC and LEA must work together to ensure a smooth and timely transition. Therefore, the following must be determined at the local level:

* The person who sends the notification/referral from Part C;
* The person who receives the notification/referral at the LEA;
* How the information will be sent to the LEA;
* Whether the referral information will be sent individually or in batches; and
* The date by which referral information will be sent if earlier from those outlined in the *Virginia Memorandum of Agreement*;
* Ensure the process is in writing in the *Local Interagency Agreement*.

By mutual agreement between the ITC and the LEA, notification of children who will be age eligible for the coming school year can occur at once or be spread out over time provided regulatory requirements are met. Local Education Agencies are to accept referrals any time of the year. Summer months and breaks are considered the same as other months of the school year.

The referral requires only the child’s name, parent’s name(s), address, phone number and birth date. When the LEA special education designee receives the child’s name and information, it is considered a referral and the regulatory timeline begins. The referral may also include the service coordinator’s name and contact information and the language(s) spoken by the child and family. Assessment information and the IFSP are not required for it to be a referral.

**Notification of the Referral to the Virginia Department of Education**

Part C is to also notify VDOE of referrals made to LEAs. Notification to the VDOE will occur by entry or transfer of the notification information into a secure single sign-on web server hosted by VDOE.

**Late Referral to Part C**

Children are referred to Part C at different times. If a child is referred to Part C between 45 and 90 days prior to the child being eligible to receive services from Part B, with parental permission, the LEA and Part C may conduct the eligibility evaluations together. For children determined eligible for Part C (and the child is potentially eligible for Part B) notification to the LEA and VDOE must occur as soon as possible after the determination of eligibility.

For a child referred to Part C fewer than 45 days prior to the child’s third birthday, with parental consent, the local early intervention system refers the child to the LEA and VDOE. This is not considered notification from Part C. Part C is not required to conduct an evaluation, assessment or develop an initial IFSP or transition plan for such children. Part C may directly refer or have the parents refer the child to the LEA.

For children referred to Part C fewer than 45 days prior to the child’s being age eligible at age two, the parents may instead wish to be referred to Part B. If this is the case, the local EI system is to directly refer or have the parent refer the child to the LEA. If the referral to Part B is made by the parent or is made prior to determining eligibility under Part C, then this is not considered a notification from Part C.

Late referrals to Part B may also be a result of parents changing their mind. It is a parent’s choice to determine when to transition. Parents may initially decide to keep their child in EI, then change their mind and request sending the notification. If this results in the notification being sent fewer than 90 days prior to the child being age eligible to receive services from Part B, then Part C is to let Part B know why the referral is late. In this case, the referral does not count against Part B as a late referral. The OSEP recognizes there are circumstances beyond the control of EI and LEAs that may result in the transition timeline being missed.

**Part B Eligibility**

For all children suspected of having a disability, LEAs are to follow the regulations outlined in the *Virginia* *Regulations* for determining whether a child has a disability and is eligible for special education and related services.

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:

* Must provide information about the child’s physical condition, social or cultural background, and adaptive behavior;
* Must include information provided by the parent(s);
* Must 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
* May include evaluation information from the Part C program as well as information from the IFSP.

Prior written notice of the eligibility decision is provided to the parents. This notice is required when a child is eligible, and when a child is not eligible for Part B services. The notice must contain the required elements outlined in the *Virginia* *Regulations* including the parent(s) right to appeal the decision through the due process hearing procedures.

**Timelines**

Upon receipt of the referral from Part C, the LEA Special Education Administrator or designee is to begin the evaluation process. Part B eligibility must be determined within 65 business days of receipt of the referral. When the referral is received, the administrator shall within three business days:

* Initiate the evaluation process;
* Require that the school-based team review and respond to the request (the team is to meet within 10 business days following receipt of referral); or
* Deny the request and provide prior written notice and procedural safeguards to the parent(s), including the parent’s right to appeal the decision through the due process hearing procedures.

The 65 day timeline is the same during the entire year including the summer. Business days are Monday to Friday, except for state and federal holidays.

**Team Membership**

Membership at eligibility/IEP meetings includes parent(s), a regular education teacher, a special education teacher, an individual who can interpret the instructional implications of evaluations, and a representative of the LEA. Parents are to be informed that the Part C Service Coordinator or other representative may be invited to the Part B Eligibility and IEP meetings. Part C personnel are to be invited to the meeting(s) if the parent requests. The regulations do not address whether written notice to Part C is required. However, because states and LEAs are required to maintain records to show compliance with IDEA, it is good practice for the LEA to keep a record of the Part C person, or persons receiving the invitation, the date the invitation was sent, and a copy of the invitation or notes from a phone call extending the invitation.

The LEA is to take steps to ensure that one or both of the parents of the child with a disability are present at each IEP meeting or are afforded the opportunity to participate. If after multiple attempts, neither parent can attend, the LEA is to use other methods to ensure parent participation, including individual or conference telephone calls and audio conferences. Every effort is to be taken to ensure that the parent(s) understand the purpose and the proceedings of the IEP meeting.

**Individualized Education Program (IEP)**

If the child is found eligible for special education and related services an IEP is to be developed within 30 calendar days from the eligibility date. The IEP team is to consider the child’s IFSP and whether there are components to be incorporated into the child’s IEP. The components of the IEP and considerations for services provided are the same for children ages two through 22. The nature of and amount of special education and related services are determined by the child’s IEP team and based on the individual needs of the child. There are a number of settings in which children may be placed and receive their special education and related services: home, separate classrooms, separate schools, residential settings, service provider location, and/or a regular early childhood program. The LRE requirements of the IDEA and *State Regulations* apply to all children with disabilities who are served under Part B of the IDEA. To the maximum extent appropriate, children with disabilities are to be educated with children who are not disabled. Before a preschooler can be placed outside the regular early childhood program, the IEP team must consider whether supplementary aids and services could be provided that would enable the education of the child to be achieved satisfactorily.

**IEP Implementation**

Once an IEP is developed, the start date can be flexible; however, services are to begin within a reasonable period of time. “Reasonable period of time” should be defined the same for preschool children as it is for other students. In some circumstances, an IEP may be developed over the summer months. When this occurs, the IEP team is to determine if the child qualifies for Extended School Year services (ESY) and when services will begin. For children who do not qualify for ESY, special education and related services may begin in the new school year. For example, the IEP may be written in June to start in September (first day of school).

Once the IEP is implemented, Part C services are to be terminated since a child may not receive both Part C and B services simultaneously. The child can continue receiving Part C services during the period of time when eligibility is being determined and the IEP developed. For children who have an IEP developed over the summer months and implemented at the start of a new school year, it is possible for the child to continue receiving Part C services (provided he has not turned three years old) until the IEP is implemented.

**Reporting Indicator 12**

Indicator 12 data is to be entered through the VDOE Single Sign-on for Web Systems (SSWS) application “Special Education Indicators.” The Instructions for Reporting Indicator 12 can be found in Appendix A.

The Reporting period for Indicator 12 is July 1 through June 30. An LEA must report on all children served by Part C and referred to Part B for eligibility determination (For information regarding how to determine if a child was served by Part C, see the section on *Late Referral to Part C*.) Children referred by Part C will also be included in the Indicator 11 Child Find “timeline” indicator.

For the reporting period, LEAs are to report on those children who were referred, found eligible, and had an IEP developed and implemented. For the purpose of reporting Indicator 12, LEAs are to use the date of the initial IEP meeting as the date to indicate an IEP was developed and implemented. If the child’s third birthday occurs during the summer and services will not begin until the start of the school year, the LEA must consider the date when the initial IEP meeting was held. If the IEP meeting was held prior to the child’s third birthday, the IEP is considered developed and implemented for the purpose of Indicator 12.

**Instructions**

In SSWS, LEAs are to report all children served and referred from Part C to Part B for eligibility determination and the number of children found eligible with an IEP implemented by their third birthday. Based on these numbers, 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 OSEP allows. These exceptions are also reported and 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.

All other reasons for development and implementation of a late IEP result in a finding of noncompliance for Indicator 12. This includes children served in Part C but referred to Part B less than 90 days before the child’s third birthday. In this case, if the LEA is unable to complete Eligibility and develop the IEP by the child’s third birthday, the LEA must report the child as not meeting the designated timeline.

When LEAs are noncompliant, they are required to provide documentation for those children who did not have an IEP implemented by their third birthday. In SSWS, LEAs are required to report the following:

* Total number of children who did not meet the timeline.
* Number of days the timeline was missed,
* Reason for missing the timeline,
* Child name, and
* Child State Testing Identifier.

It is the responsibility of both Part C and Part B to work together to ensure all transitions are smooth and timely. EI and LEA personnel are to create and maintain a positive working relationship. Recommended practices to support positive relations include meeting annually to discuss the transition process and identify any areas in need of improvement and frequently reviewing and updating the *Local Interagency Agreement* to ensure it reflects the responsibilities of each locality and procedures that will ensure successful transition outcomes for children and families. The VDOE and VDBHDS provide resources to help agencies to collaborate effectively. Resources can be found on the VDOE website.

**Appendix A**

**Part B Special Education State Performance Plan (SPP) and Annual Performance Report (APR): Instructions for Reporting on Indicator 12**

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 the beginning of the school year if they turn age two by September 30 of that school year or by their third birthday.

All data must be entered through the **SSWS application “Special Education Indicators.”** Request access to the application from your local SSWS administrator.

* Reporting period is July 1, \_\_\_\_ through June 30, \_\_\_\_.
* Report only on children served and referred by Part C to Part B for eligibility determination.
* Use the date of the initial IEP meeting to determine children to report during this reporting period.
* **Data must be submitted on or before \_\_\_\_\_\_\_.**

### Data Entry

Section 1. Report on children served and referred from Part C to Part B

* A. Enter the number of children who have been served in Part C and referred to Part B for eligibility determination.
* B. Enter the number of children not determined eligible due to withdrawal of consent, the child moved, or any extenuating circumstance. This number is not included in the calculation.
* C. Enter the number of children that did not meet time line because parent repeatedly failed or refused to make the child available. This number is not included in the calculation.
* D. Enter the number of children for whom parent refusal to provide consent caused delays in evaluation or initial services (referred less than 65 business days prior to age of eligibility). This number is not included in the calculation.
* E. Enter the number of children who were referred to Part C less than 90 days before their third birthdays. This number is not included in the calculation.
* F. Enter the number of children determined to be NOT eligible and whose eligibility was determined prior to their third birthdays. This number is not included in the calculation.
* G. The cell automatically adds B, C, D, E, and F indicating the total number of exceptions.
* H. The cell automatically calculates A minus G. This number is the denominator.
* I. Enter the number of children found eligible and who have an IEP implemented by beginning of school year if two by September 30 or by 3rd birthday. This number is the numerator.
* J. Automatically calculated reflecting the number that did not meet timeline.
* K. Automatically calculated. K is the percent that will be reported to the public.

 Section 2. Account for children in J. from Section 1.

* L. Enter the number of children who missed Indicator 12 timeline for each range of days. Use the exact number of business days, not an average, in determining the range.
* M. Enter the actual number of delays in Indicator 12 timeline for each listed applicable reason. Specify other reason not listed and the number of determinations beyond the timeframe.
* J, L, M must be the same or the application will not let you save the data. An error message in red will appear at the top of the page after hitting the save button.
1. The Infant and Toddler Connection of Virginia (ITC) provides early intervention supports and services to infants and toddlers from birth up to age three who have certain levels of **developmental delay**, **differences in development** and/or a **diagnosed condition**. Referrals to the ITC of Virginia are made by contacting the early intervention “central point of entry” for the child’s and family’s locality. There are 40 ITCs throughout the state. [↑](#footnote-ref-1)
2. Regulations for Part C can be found on the Infant and Toddler Connection of Virginia website. Regulations for Part B can be found on the Virginia Department of Education website. [↑](#footnote-ref-2)