

Early Intervention to Early Childhood Transition

Frequently Asked Questions

Revised - May 2017

Question 1. When should the Child and Family Connections (CFC) service coordinator provide written referral of a potentially eligible child to the Local Education Agency (LEA)?

Answer: No later than six months prior to the child's third birthday, the Service Coordinator shall begin to communicate with the child's family about transition. If a toddler may be eligible for preschool services under Part B, the Service Coordinator, with parental consent, will transmit additional information to the LEA or other relevant agency to ensure continuity of services from the Part C program to the Part B program.

Service coordinators are encouraged to discuss transition out of early intervention (EI) as soon as the child enters the early intervention system. Service coordinators can initiate the written referral process earlier for children with summer birthdays or other concerns that could require more transition time.

34 CFR 303.209

89 IAC 500.100

CFC Manual 13.1

Question 2. Can the transition planning conference be held earlier than 90 calendar days before the child's third birthday?

*Answer: Yes, the transition planning conference can be held earlier than 90 calendar days before the child's third birthday. However, the transition planning conference **cannot** occur more than nine months before the child's third birthday. The broadest timeframe for conducting the transition planning conference is between two years, three months to two years, nine months. The transition planning conference must be completed 90 calendar days before the child's third birthday.*

34 CFR 303.209(c)(1)

Question 3. How are LEAs made aware of children receiving early intervention services who may be eligible for Part B services when they turn three years of age?

Answer: Under an interagency agreement, each month, the Illinois Department of Human Services (DHS) provides the Illinois State Board of Education (ISBE) with a list of all children receiving early intervention services who are 27 months of age or older. This list is known as "the 27 month list." ISBE provides the list to each appropriate LEA so that the LEAs are aware of these children and can plan accordingly. The LEA should monitor the list closely to ensure that children receive a smooth and efficient transition. In addition, the LEA should maintain contact with the CFC to verify receipt of referral packets for every EI eligible child whose parents wanted a referral to the LEA.

April, 2017 agreement

DHS and ISBE Interagency Agreement https://www.isbe.net/Documents/intergov_agreement.pdf

Question 4. Who is responsible for convening the transition planning conference or transition meeting that must be held at least 90 calendar days before the child's third birthday?

Answer: The CFC service coordinator is responsible for convening, conducting and keeping a record of this meeting. At the transition planning conference the CFC service coordinator shall keep record and provide the parents:

- Information about preschool services under IDEA Part B;*
- A description of IDEA Part B eligibility definitions;*
- State timelines and processes for consenting to an evaluation and conducting eligibility determinations under IDEA Part B; and*

- *The availability of special education and related services.*

The school district has an obligation under the law to participate in transition planning conferences. Whether or not the school district participates, the conference must occur.

34 CFR 303.209(c)(1)

CFC Manual 13.4

Question 5. What if the CFC receives a referral for a child between the ages of 2½ and three years?

Answer: The local transition agreement should establish practices that provide for timely evaluation and service provision on an individual basis through early intervention services, early childhood special education (ECSE) services or a combination of the two. The LEA may serve a child eligible for ECSE services at age two during the school year he/she turns three years of age. Early intervention must complete evaluations and implement an individualized family service plan (IFSP) while working on transition planning activities. The local school district may also consider using the IFSP for starting services when the child initially enters the school in order to ensure they are served at age three.

45 Days Requirement

When a child is referred to the CFC with fewer than 45 days until her/his third birthday, the CFC will refer the child and family directly to the local school district for screening and/or evaluation.

34 CFR 303.209(b)(iii)

Question 6. Who are the required participants at this transition planning conference?

Answer: The required participants are:

- *The parent or parents of the child.*
- *The service coordinator designated by the public agency to be responsible for implementing the IFSP.*
- *A person or persons directly involved in conducting the evaluations and assessments.*
- *As appropriate, persons who will be providing early intervention services under this part to the child or family*
- *Other family members, as requested by the parent, if feasible to do so.*
- *An advocate or person outside of the family, if the parent requests that the person participate.*

34 CFR 300.124

34 CFR 303.343

Question 7. What information is needed to determine ECSE eligibility and how is the information used?

Answer: Upon receipt of the written referral from the CFC, the LEA is responsible for determining eligibility and keeping appropriate documentation. The LEA is responsible for reviewing the evaluation data from early intervention to determine if they are current and sufficient to establish eligibility for ECSE services. Additional assessments should be administered by the LEA only when required information is not available or is no longer current. The determination of whether additional assessments are needed must be made through a domain review process with the parents. It is possible that the evaluation may consist totally of existing data, when data are sufficient to determine eligibility and develop an individualized education program (IEP) or IFSP. If an evaluation consists of existing data only, the parent must be informed and given the opportunity to request additional data, if needed, in order to determine eligibility. If additional assessments are necessary it is the responsibility of the LEA to acquire them and the financial burden does not fall on the early intervention program.

When the team determines that additional assessments are required to determine eligibility, the evaluation team must utilize a variety of assessment tools and strategies to gather functional and developmental information about the child, including information from the parents, and information related to enabling the child to be involved in and progress, in age-appropriate activities. The tools and strategies must yield relevant information that directly assists in determining the educational needs of the child. Once the evaluation team, including the parents, has gathered all relevant information, they determine if the child meets the definition of a child with a disability.

34 CFR 300.300 – 300.306 23 IAC 226.110

Question 8. Which parent rights apply during the transition period?

Answer: The parents' rights under the Individuals with Disabilities Education Act (IDEA) apply to both Part C and Part B. It is the responsibility of the CFC service coordinator to provide the family with the rights of both Part C and Part B of the IDEA when they discuss and make the school referral. The LEA staff must provide the parents with the Explanation of Procedural Safeguards upon referral for an initial evaluation. Early intervention parent rights apply until the LEA services begin. Special education parent rights apply as soon as the LEA receives the referral. Early childhood special education services begin at the child's third birthday. It is the responsibility of the CFC service coordinator to provide the family with the rights of both Part C and Part B of IDEA when they discuss and make the school referral.

**34 CFR Part 300, Subpart E – Procedural Safeguards
34 CFR Part 303, Subpart E - Procedural Safeguards
23 IAC Part 226, Subpart F – Procedural Safeguards
89 IAC Part 500, Subpart E – Procedural Safeguards**

Question 9. What happens if a child is found to be NOT eligible for ECSE services? May early intervention services continue past the child's third birthday?

Answer: No, to continue to receive state and federal funding for services, a three year old child MUST meet IDEA Part B special education eligibility. Early intervention services cannot continue past the child's third birthday.

For a child who is determined to be not eligible, the team should consider the individual needs of the child and potential community programs or services for which she/he may be eligible. The transition planning conference, exit IFSP, or the IEP meeting where the child is found to be not eligible are appropriate times to discuss other options at the time of transition that may meet the needs of the child and family.

34 CFR 300.17 34 CFR 303.1 89 IAC 500.100 – 500.105

Question 10. May LEAs conduct screenings for children who are transitioning from early intervention to early childhood special education?

Answer: Yes, screenings may be conducted particularly when the team suspects the child may not be eligible for ECSE services. However, conducting a screening may NOT delay the transition process.

23 IAC 226.100

Question 11. For children with a late spring/summer birthday, may a school district have a policy that they will only admit preschool age children in the fall?

Answer: No, IEP teams must address each child on an individual basis, regardless of when their birthdays occur during the school year. The transition planning conference that is completed 90 calendar days before the child's third birthday should result in a smooth and effective transition for each child by the age of three, with ECSE eligibility determined, an IFSP/IEP developed, and written parent consent signed for initial service provision and placement. A child entering school district services in the late spring/summer cannot be denied services over the summer solely because he/she has just entered the school district.

23 IAC 226.260

Question 12. May an IEP be used for a two-year-old child?

Answer: Yes, if the child is being served in ECSE during the school year he/she becomes three years of age. In such cases the child may enter school at the beginning of the school year, even if the school term begins prior to her/his third birthday.

34 CFR 300.323(b)

Question 13. If an LEA begins services for a child who is two and will become three during the school year, may the child continue to receive early intervention services as well?

Answer: No, Part C early intervention services do not apply to any child with a disability who is receiving FAPE through services funded by Part B of the IDEA.

34 CFR 300.818

Question 14. May an IFSP be used for a child from age three through five years, who is eligible for ECSE services?

Answer: Yes. For children from three through five years of age, an IFSP may be used for ECSE services, as long as it meets special education requirements for participants, timelines and notice/consent procedures. The IFSP would be developed by the LEA staff, must meet the requirements of an IEP would have a new start date, and would be in effect for one year. If an IFSP is used, this does not mean the child "remains in early intervention", but instead means that ECSE services are being provided using an IFSP. Parents must be given an explanation of the difference between an IFSP and an IEP, and must provide informed, written consent for using an IFSP. 34 CFR 300.323(b)(1). Additional guidance on using an IFSP to develop an IEP is available at https://www.isbe.net/Documents/guidance_10-2.pdf.

34 CFR 300.323(b)(1) 23 IAC 226.250

Question 15. Can the LEA IEP team determine that the existing IFSP developed under the early intervention system contains all appropriate information and services identified through the initial evaluation?

Answer: Yes. The IEP team may review the current IFSP to see if it continues to be appropriate and meets the child's functional, developmental, and academic needs. It would then be considered a new IFSP with a new start date and meet all requirements of special education IEP procedures. It could be that this IFSP would only be in effect for a short period of time, such as over the summer, at which time a new IEP/IFSP must be in effect for services to continue.

The frequency, duration, and location of the services must be determined by the IEP team. Additional guidance on using an IFSP to develop an IEP is available at https://www.isbe.net/Documents/guidance_10-2.pdf.

23 IAC 226.250

Question 16. What are some possible placement options in which the child could receive ECSE services that may be considered by the IEP team at the time of transition?

Answer: *The LEA IEP team must consider a general education preschool setting as the first option for placement. More restrictive options may be considered after the determination is made that 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. Some general education preschool options could include:*

- *State-funded Prekindergarten or Preschool for All programs.*
- *Head Start*
- *Child care*
- *Community preschool programs*
- *Park district preschool programs*
- *School district preschool programs (enrolling typically developing preschoolers who pay tuition)*
- *Home (if home is where the child would be if he/she did not have a disability).*
- *Blended classrooms*

Other placement options may include:

- *Early childhood special education self-contained programs*
- *Separate school*
- *Residential facility*

34 CFR 300.39 34 CFR 300.114 – 300.116

Question 17. May the LEA pay tuition for a community placement such as a preschool or child care program?

Answer: *Yes. The federal regulations require IEP placements in the least restrictive environment for each child. Federal court decisions have required districts to use community placements when FAPE in the least restrictive environment cannot be provided within the school district. The LEA may pay full or partial tuition for a community placement when the team decides that the community placement is most appropriate. Since the IEP team must consider a general education preschool setting as the first option for placement, preschool community programs may be included in the consideration, particularly if the school district does not operate a preschool program or receive a Preschool for All grant.*

34 CFR 300.114-300.116

184 F.3d 912 (7th Cir. 1999) LaGrange Board of Ed. v. ISBE and Ryan B. & Parents

Question 18. What about children who turn three over the summer? The school district staff does not work over the summer.

Answer: *If the child's third birthday is in the summer the 90 calendar day timeline of the transition planning conference should be at least 90 calendar days before the end of the school year, so that the school district will have time to ensure that the IFSP/IEP for an eligible child will be*

in place by the third birthday. The CFC service coordinator may consider making the school referral sooner than six months before the child's birthday to ensure this happens.

34 CFR 300.124(b) 34 CFR 303.209

Question 19 For a child whose third birthday is late spring/summer, may extended school year (ESY) services be provided without using the regression formula for school-aged children?

Answer: Yes, the IEP team must decide the need for ESY services on an individual basis. Besides regression, the team must consider the nature and severity of the child's disability, degree of impairment, rate of progress and availability of other services. It might be more helpful to consider what summer services may be necessary for the child to receive FAPE. Because brain research demonstrates significant opportunity for learning during the early childhood years, the team can use that as justification for taking advantage of such "windows of opportunity" during breaks in the school year. In addition, particular consideration should be given to children who need instruction in self-help skills such as dressing or eating, or who need continued structure to develop behavioral control. If the IEP team, including the parents, determines that services are not needed over the summer for the child to receive FAPE, the IEP team may note the first day of the next school year as the date services will begin. Additional information regarding extended school year services is available at https://www.isbe.net/Documents/memo_esy_01.pdf.

34 CFR 300. 106

Question 20. When a three-year-old child is in the transition process and there is no ECSE IEP/IFSP in place, is the "stay put" placement the early intervention placement?

Answer: No. The intent of the law is to provide for a "smooth transition" between Part C early intervention and Part B early childhood special education. Early intervention services end on the child's third birthday and ECSE services cannot begin until the child has been determined eligible for special education and the parents have consented to begin services. If all of this has not happened by the child's third birthday, "stay put" does not apply. That is why it is important to begin the transition process as soon as possible before the child's third birthday and why regulations require LEAs to have an IEP/IFSP in place by the child's third birthday.

34 CFR 300.518(c)

Question 21. What if the school district says there is no room in the program for the child?

Answer: State and federal regulations require school districts to serve children who are transitioning from early intervention and who are eligible for ECSE on or before their third birthdays. If the placement the IEP team has chosen is at capacity, the team may consider another placement or services in the interim until a slot becomes available in the preferred placement.

34 CFR 300.101 23 IAC 226.700

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Resources:

Illinois Department of Human Services <http://www.dhs.state.il.us/page.aspx>

- Early Intervention - <http://www.dhs.state.il.us/page.aspx?item=31889>

Illinois State Board of Education www.isbe.net

- Early Childhood Special Education - <https://www.isbe.net/Pages/Early-Childhood.aspx>

34 CFR Part 300 - Assistance to States for the Education of Students with Disabilities

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title34/34cfr300_main_02.tpl

34 CFR Part 303 - Early Intervention Program for Infants and Toddlers with Disabilities

<https://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:2.1.1.1.2>

23 Illinois Administrative Code Part 226 - Special Education

<https://www.isbe.net/Documents/226ark.pdf>

89 Illinois Administrative Code Part 500 – Early Intervention Program

<http://www.ilga.gov/commission/jcar/admincode/089/08900500sections.html>

Child and Family Connections Procedure Manual - <http://www.dhs.state.il.us/page.aspx?item=75381>