

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

The Part C regulations in new 34 CFR §303.209(a)(3) require the State to include in its IDEA Part C application a description of how the State will meet each of the requirements in 34 CFR §303.209(b) through (f). In addition, new 34 CFR §303.209(a)(3)(ii) requires the lead agency to have either a transition interagency or intra-agency agreement to address how the State will meet the IDEA Part C early childhood transition requirements in 34 CFR §303.209(b) through (f) (including any policies adopted by the lead agency under 34 CFR §303.401(d) and (e), and §303.344(h)) and the IDEA Part B early childhood transition requirements in 34 CFR §§300.101(b), 300.124, 300.321(f) and 300.323(b).

OSEP has reviewed the State’s transition [**policies and procedures titled [insert] and/or agreement between [insert name of parties] dated [insert date]**] submitted under Section II.A.10 of the State’s IDEA Part C Grant Application and identified the following issues.

| <u>IDEA Part C Early Childhood Transition Requirements</u> | <u>State’s Transition Policy</u> | <u>State’s Transition Agreement</u> | <u>Issue</u> | <u>Required Action</u> |
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| A. Transition Notification | | | | |
| The lead agency must notify the SEA and the LEA (where the toddler receiving Part C services resides) that a toddler who is receiving Part C services and who is potentially eligible for services under the Part B section 619 preschool program will shortly turn three years old and exit the Part C program. (34 CFR §303.209(b)) | | | <i>The State’s policy and Agreement must ensure that the SEA and the LEA both receive the transition notice.</i> | |
| Notification must occur not fewer than 90 days prior to the child’s third birthday. §303.209(b) | | | <i>When describing transition timelines, States must either use the number of days described in the regulations or provide a direct citation to the federal regulations. Policies are insufficient if they only say that “federal requirements will be met” without specifying the requirement.</i> <i>Policies must be clear that “not fewer than 90 days” is a requirement and not a guideline, so the state needs to</i> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

| | | | | |
|--|--|--|--|--|
| | | | <p><i>use terms like “must” or “will” rather than “should.”</i></p> <p><i>For transition notification, States are not required to have an outer limit time period (i.e., the 9-month maximum time period that is required for transition plans and conferences). A State may adopt an outer limit time period for transition notification (such as 12 to 9 months prior to the child’s 3rd birthday), provided that the notification must occur not later than the 90-day minimum time frame.</i></p> | |
| <p>If the lead agency determines that the toddler is eligible for early intervention services more than 45 days but less than 90 days before that toddler’s third birthday, the State must provide the Transition Notification as soon as possible after determining the toddler’s eligibility. §303.209(b)</p> | | | <p><i>See comment above concerning timelines requirements.</i></p> | |
| <p>If a child is referred to the lead agency fewer than 45 days before the toddler’s third birthday, the lead agency is not required to conduct an evaluation, assessment, or initial Individualized Family Service Plan (IFSP) meeting. If that child may be eligible for preschool services under Part B of the IDEA, the lead agency, with parental consent if applicable and required under §303.414, must refer the toddler to the SEA and the LEA where the toddler resides. §303.209(b)</p> | | | <p><i>See comment above concerning timelines requirements.</i></p> <p><i>Note: Parental consent may not be applicable if the lead agency is the SEA, but the SEA lead agency may choose to add a consent requirement.</i></p> | |
| <p>The State must ensure that the notification is consistent with any “Opt-Out” policy adopted by the State, under §303.401(e), permitting a parent to object to disclosure of personally identifiable information. §303.209(b)(2)</p> | | | <p><i>If the State has no Transition Notification Opt-Out policy, then this provision would not be applicable. If the State has a Transition Notification Opt-Out policy, it must</i></p> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

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| | | | <i>be submitted for review as part of Section II.A.10 of the application.</i> | |
| <p>Unless the State lead agency has an opt-out policy, the lead agency must disclose to the SEA and the LEA where the child resides, in accordance with §303.209(b)(1)(i) and (b)(1)(ii), the following personally identifiable information under the Act:</p> <p>(i) A child’s name. (ii) A child’s date of birth. (iii) Parent contact information (including parents’ names, addresses, and telephone numbers). §303.401(d)</p> | | | <p><i>Regardless of whether the State has an Opt-Out policy, the State policies and Agreement need to specify what information is included in the transition notification, including the child’s name, child’s date of birth, and parent contact information.</i></p> <p><i>The State policies and Agreement need to specify that the parent contact information includes the parent’s name, address and telephone number.</i></p> <p><i>A State may also include, as part of the notification information, the name and contact information of the service coordinator, as well as the native language of the parent, as this is part of the child find information needed by Part B to contact the parent.</i></p> | |
| <p>A State lead agency, through its policies and procedures, may require EIS providers, prior to making the limited disclosure described in 303.401(d)(1), to inform parents of a toddler with a disability of the intended disclosure and allow the parents a specified time period to object to the disclosure in writing. If a parent (in a State that has adopted the policy 303.401(e)(1)) objects during the time period provided by the State, the lead agency and EIS provider are not permitted to make such a disclosure under 303.401(d) and §303.209(b)(1)(i) and (b)(1)(ii). §303.401(e)</p> | | | <p><i>An Opt-Out policy must specify:</i></p> <p><i>(1) When parents will be notified.</i> <i>(2) How parents will be notified.</i> <i>(3) The length of time parents have to opt out.</i> <i>(4) How parents can opt out (note that parents can opt out only in writing).</i> <i>(5) Content of Notice, which must include:</i></p> <p><i>(a) the information to be disclosed (child’s name & date of birth and parent contact information);</i> <i>(b) right to opt out of disclosure;</i></p> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

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| | | | <p><i>(c) the time period the parent has to notify lead agency that the parent is opting out; and</i></p> <p><i>(d) how parent can opt out (in writing).</i></p> | |
| B. Transition Conference | | | | |
| If a toddler with a disability may be eligible for Part B preschool services, with the family’s approval, the lead agency convenes a transition conference with the appropriate parties to discuss any services the toddler may receive under Part B. §303.209(c)(1) | | | | |
| If the toddler may be eligible for Part B preschool services, then the conference must be held no later than 90 days before the toddler’s third birthday, but, at the discretion of all parties, may occur up to nine months before the toddler’s third birthday. §303.209(c)(1) | | | <p><i>When describing transition timelines, States must either use the number of days described in the regulations or provide a direct citation to the federal regulations. Policies are insufficient if they only say that “federal requirements will be met” without specifying the requirement.</i></p> <p><i>Policies must be clear that “no later than 90 days” is a requirement and not a guideline, so the State needs to use terms like “must” or “will” rather than “should.”</i></p> | |
| If a toddler with a disability is not potentially eligible for Part B preschool services, with the family’s approval, the lead agency makes reasonable efforts to convene a conference with the appropriate parties to discuss other appropriate services that the toddler may receive. §303.209(c)(2) | | | <p><i>State policies must address toddlers who are <u>not</u> potentially eligible for Part B services, unless the policy makes clear that all children served under Part C are treated as potentially eligible under Part B.</i></p> <p><i>If the Part B program will not be involved in the transition of toddlers not potentially eligible for Part B</i></p> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

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| | | | <i>services, then the transition agreement does not need to address this requirement.</i> | |
| Any transition conference must meet the requirements in §§303.432(d) and (e) and 303.343(a). §303.209(e) | | | <i>In addition to the parties mentioned in §303.209(c)(1) and (2), §303.343(a) describes the other required participants for a transition conference meeting. They are (1) the parent or parents of the child; (2) other family members, as requested by the parents, if feasible to do so; (3) an advocate or person outside of the family, if requested by the parents; (4) The designated service coordinator; (5) a person or persons directly involved in evaluations and assessments; and (6) as appropriate, persons who will be providing EI services to the child and family.</i> | |
| C. Transition Plan | | | | |
| The lead agency must have policies to ensure that each infant and toddler with a disability exiting the Part C program has in place in the IFSP a transition plan. | | | <i>This requirement applies to all toddlers leaving Part C, not just those moving to Part B.</i> | |
| The lead agency must have policies to ensure that it reviews the program options for the toddler for the period from the toddler's third birthday through the remainder of the school year. §303.209(d) | | | | |
| The lead agency must have policies to ensure that it includes the family in the development of the transition plan. §§303.209(d)(1)(ii) and 303.344(h) | | | <i>"Include the family in the development of the transition plan" means more than simply allowing parents to attend. State policies must make it clear that families are included and participate in the development of the plan.</i> | |
| The lead agency must establish a transition | | | <i>The transition plan needs to be in the</i> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

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| <p>plan in the IFSP not fewer than 90 days, but at the discretion of all parties up to 9 months, before the toddler's birthday. §303.209(d)(2)</p> | | | <p><i>IFSP, not just completed, within the applicable time frame.</i></p> | |
| <p>The transition plan in the IFSP must include, consistent with 34 CFR §303.344(h), any appropriate steps for the toddler to exit the Part C program and any transition services needed by that toddler and his or her family. §§303.209(d)(3)</p> | | | | |
| <p>The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with §§303.209 and 303.211(b)(6), from Part C services to—</p> <ul style="list-style-type: none"> (i) Preschool services under Part B of the Act, to the extent that those services are appropriate; (ii) Part C services under §303.211; or (iii) Other appropriate services. <p>(2) The steps must include--</p> <ul style="list-style-type: none"> (i) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition; (ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; (iii) Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with §303.209(b) (and any policy adopted by the State under §303.401(e)) and, with parental consent if required under §303.414, transmission of additional information needed by the LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most | | | <p><i>Multiple States have missed these two provisions in their initial draft policies:</i></p> <p><i>State polices need a provision that ensures that the IFSP contains <u>confirmation</u> that the transition notification (which requires child find information to be transmitted to the LEA or other relevant agency) has occurred.</i></p> <p><i>The State polices must also ensure that the IFSP contains <u>identification</u> of transition services deemed necessary by the IFSP Team.</i></p> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

| | | | | |
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| recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with §§303.340 through 303.345; and (iv) Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child. §303.344(h) | | | | |
| Any meeting to develop the transition plan must meet the requirements in §§303.432(d) and (e) and 303.343(a). 303.209(e) | | | <i>§303.343(a) describes the required participants for a meeting to develop a transition plan. They are (1) the parent or parents of the child; (2) other family members, as requested by the parents, if feasible to do so; (3) an advocate or person outside of the family, if requested by the parent; (4) The designated service coordinator; (5) a person or persons directly involved in evaluations and assessments; and (6) as appropriate, persons who will be providing EI services to the child and family.</i> | |
| D. Other Part C | | | | |
| The transition conference and IFSP meeting to develop the transition plan <u>may</u> be combined into one meeting, as long as they meet the requirements in 34 CFR §§303.342(d) and 303.343. 34 CFR §303.209(e) | | | <i>The State's policy must address this requirement.</i> | |
| If the State has adopted policies under 303.211, additional transition requirements must be explained in the Agreement. | | | <i>If the State is considering adopting policies under §303.211, please contact OSEP to work through timing and implementation.</i> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

To ensure a seamless transition between services under Part C and under Part B of the Act, an interagency agreement under §303.209(a)(3)(i)(A) or an intra-agency agreement under §303.209(a)(3)(i)(B) must address how the lead agency will meet the requirements of 34 CFR §§300.101(b), 300.124, 300.321(f) and 300.323(b), in addition to the requirements listed above. The State is not required to submit as part of its IDEA Part C application its Part B transition policies under II.A.10; rather these Part B requirements must be included in the early childhood transition agreement required under 34 CFR §303.209(a).

| <u>IDEA Part B Early Childhood Transition Requirements</u> | <u>State's Transition Agreement</u> | <u>Issue</u> | <u>Required Action</u> |
|--|--|---|-------------------------------|
| In order to ensure a smooth and effective transition for children with disabilities who received Part C services and are eligible for Part B preschool services, the State must have policies and procedures in place to ensure that an IEP, or if consistent with IDEA sections 614(d)(2)(B) and 636(d), an IFSP, has been developed and is being implemented by the child's third birthday. 34 CFR §§300.101(b) and 300.124(b) | | | |
| Each affected LEA must participate in transition conferences arranged by the lead agency for toddlers with disabilities who may be eligible for preschool services under Part B. §300.124(c) | | <i>The Agreement must make clear that the affected LEA <u>must</u> participate in the conference.</i> | |
| At the request of the parent, an invitation to the initial IEP meeting must be sent to the Part C service coordinator, or other Part C service representative, if the child previously received Part C services. §300.321(f) | | | |
| For all children who transition from Part C services to Part B, the IEP team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in IDEA section 636(d) and its implementing regulation when developing the initial IEP. §300.323(b) | | <i>The Agreement must make clear that the IEP Team must consider the IFSP when developing the initial IEP. (The IEP Team does not necessarily need to consider the IFSP for future IEPs.)</i> | |
| At the State's option, the IFSP may serve as the | | <i>This is an option for a State.</i> | |

Annotated Version
OSEP Transition Checklist for Reviewing
Transition Documents under
Section II.A.10 of the IDEA Part C Grant Application

| | | | |
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| <p>IEP for a child with a disability aged three through five (or at the discretion of the SEA, a two-year old child with a disability who will turn three during the school year) under the following conditions:</p> <ul style="list-style-type: none"> (a) using the IFSP as the IEP is consistent with State policy and agreed to by the agency and the child's parents; (b) the child's parents are provided with a detailed explanation of the differences between an IEP and an IFSP; (c) written informed consent is obtained from the parents if the parents choose an IFSP; (d) the IFSP contains the IFSP content, including the natural environments statement; (e) the IFSP includes an educational component that promotes school readiness and incorporates pre-literacy, language and numeracy skills for children with IFSPs who are at least three years of age; and (f) the IFSP is developed in accordance with the IEP procedures under Part B of the IDEA. §300.323(b) | | | |
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