



**child  
development  
services**

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CDS Administrative Letter Number 16

DATE: April 3, 2009

TO: CDS Regional Board Chairs, CDS Site Directors, CDS State Level  
Advisory Board

FROM: David Noble Stockford, Policy Director and Team Leader  
Debra Hannigan, CDS State Director

RE: Part C to Part B Preschool Transition

CDS regional site staff is required to provide transition services for children and families receiving Part C Early Intervention Services that may be potentially eligible for Part B Pre-School Special Education services upon their third birthday.

According to Public Law 108-446, the Individuals with Disabilities Education Improvement Act of 2004 ( IDEA) 20 USCS § 1437(a)(9):

- (A) To ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under part 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how–
  - (i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and
  - (ii) the lead agency designated or established under section 635(a)(10) will–
    - (I) notify the local educational agency for the area in which such a child resides that a child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;
    - (II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all parties, not more than 9

months) before the child is eligible for the preschool services that the child may receive

Because CDS is a Birth to 5 system and is the agency responsible for both Part C and Part B Preschool Special Education services, The CDS State IEU has established requirements for sites to follow for compliance with Indicator C8, a State Performance Indicator for the Annual Performance Report.

**Indicator C-8A: IFSP with Transition Steps and Services:**

CDS sites must ensure the use of the State Required IFSP form which includes a Transition Plan and a Transition Conference document. Beginning no sooner than 9 months before eligible children receiving Part C services, but no later than 90 days before the child's third birthday, the IFSP team must:

- Document planning steps and services offered to the Family on IFSP
- Discuss with parents what "transition" from early intervention to Part B Preschool Special Education services means. Including eligibility and age guidelines for Preschool Special Education and the differences between:
  - Early Intervention vs. Preschool Special Education and a Free and Appropriate Public Education
  - IFSP vs. IEP
  - Services provided in the Natural Environment vs. in the Least Restrictive Environment
- Review child's present level of functioning and most recent evaluations. Determine what, if any evaluations need to be completed to determine eligibility for Preschool Special Education services
- Discuss with parents possible program options that may be available when their child is no longer eligible for early intervention services
- Provide opportunity for parents to meet and receive information from pre-school or other community program representatives as appropriate.
- Schedule the transition conference and invite participants.

**Indicator C-8B: Notification to LEA, if child is potentially eligible for Part B:**

CDS sites must:

- With parental consent, pass on information (including evaluation and assessments and the IFSP) to Part B personnel.
- Ensure Part B personnel are invited and attend the Transition conference to help determine the child's eligibility for Part B Pre-school Special Education.

**Indicator C-8C: Transition Conference:**

CDs sites must:

- Conduct a Transition Conference
  - Must be held no later than 90 days, or no sooner than 9 months, before the child's third birthday
  - Must include qualified representatives of CDS responsible for Part C and Part B services
- Team must determine if the child is eligible to receive Part B services
- IEP may be developed at the transition conference but must be developed no later than 15 days before the child's third birthday.
- If the child is eligible for Part B services, Consent for placement is signed by the parent
- Determination of the Least Restrictive Environment setting for the child

If the child is found eligible for Part B services:

- If the IEP was not developed at the Transition Conference, schedule an IEP Team meeting to develop the child's IEP no later than 15 days before the child turns 3.
- The site must determine the location in which the child's special education services will be provided in order to provide a FAPE
- Provide transition services and opportunities for the child and family to visit the program

If the child was not found eligible for Part B services:

- Early Intervention Services as outlined in the child's IFSP will continue until the child turns 3.
- Provide information about programs or services that may be available to a child and family once their Part C services end.
- If the child and family is eligible for MaineCare, and wish to pursue medically necessary services, obtain parental consent and make a referral to MaineCare in accordance with the settlement of the *K.S. v. Commissioner, Maine Dept. of Health and Human Services*, United States District Court Civil Action no. 1:08-cv-199.

**Upon the child's third birthday the CDS sites must ensure that:**

- The child has an IEP outlining his/her Part B Preschool Special Education services
- Early Intervention services have ended
- Determine if a post transition IEP team meeting needs to be held to evaluate the process with families.

A Part C to Part B Preschool Transition timeline handout has been created for use by the CDS sites and can be found at

<http://www.maine.gov/education/speced/cds/supervision/index.html>.

In addition to the requirements listed above, The CDS State IEU has established a

procedure for CDS sites to follow if a child is referred to the CDS site within 90 days of their 3<sup>rd</sup> birthday. The CDS sites must:

- Discuss with the family the differences between Part C Early Intervention Services and Part B Preschool Special Education including:
  - Timelines for child find activities
  - Eligibility requirements
  - IFSP and IEP services and placement options
- Provide the family Written Notice of the Initial Referral
  
- **If the family chooses to go forward with a Part C referral for services, and the child find timeline allows, CDS must:**
  - Follow the Part C 45 day timeline to complete the initial evaluation and determine eligibility for services.
  - Develop an IFSP that will commence upon eligibility and end the day before the child's third birthday.
  
- **If the family decides to go forward with a Part C referral but would also pursue a Part B referral, the CDS site must:**
  - Complete the Part C evaluation as described above
  - Conduct any additional evaluations required for Part B eligibility including an observation of the child in a setting with non-disabled peers within 45 school days from the receipt of the consent to evaluate
  - Conduct a Team meeting to determine Part C eligibility and develop the IFSP
  - If the evaluations for Part B eligibility are completed at the time of the IFSP team meeting, the team must review the evaluations and determine Part B eligibility.
    - If found eligible for Part B services, an IEP must be developed to begin on the child's third birthday.
  
- **If the family decides to go forward with a Part B referral, or the timeline in which to complete a Part C referral cannot be completed before the child's 3<sup>rd</sup> birthday, the CDS site must:**
  - Follow the Part B initial referral process and determine eligibility for Part B services within 45 school days of the receipt of the consent to evaluate from the parent.

For more information about this matter, please contact Debra Hannigan [debra.hannigan@maine.gov](mailto:debra.hannigan@maine.gov), Erica Thompson [erica.thompson@maine.gov](mailto:erica.thompson@maine.gov) or Janna Gregory at [janna.gregory@maine.gov](mailto:janna.gregory@maine.gov) or call 624-6660.