

Transition From Part C to Part B Questions and Answers

Glossary:

Virginia Regulations Section 8 VAC 20-80-50. **Child find.**

<http://www.doe.virginia.gov/VDOE/Instruction/Sped/varegs.pdf>

Child Find: Each local school division shall 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.

Child Study Team: This team is a part of the child find screening process.

A child study committee shall be established in each school to review records and other performance evidence of the children referred through a screening process, or by school staff, the parent or parents, or other individuals.

a. All referrals to the child study committee shall be made to the principal or designee. The committee shall include:

- (1) The referring source, as appropriate (except if inclusion of referring source would breach the confidentiality of the child);
- (2) The principal or designee;
- (3) At least one teacher; and
- (4) At least one specialist.

b. The child study committee shall meet within 10 business days following receipt of the referral. The purpose of the meeting is to identify and recommend strategies to address the child's learning, behavior, communication, or development. This does not preclude the child study committee from making a referral for evaluation for special education and related services prior to implementing strategies. The child study committee shall refer the child to the special education administrator or designee within five business days following the determination by the committee that the child should be referred for an evaluation for special education and related services.

c. Actions by the committee shall be documented in writing and shall include information upon which a decision was based.

Virginia Special Education Regulations 8 VAC 20-80-56. Eligibility.

Eligibility Process: according to Virginia regulations are the procedures to ensure that the decision regarding eligibility for special education and related services is made. The procedures include timelines including IEP development (if the child is found eligible), test administration and data collection and review, eligibility committee composition, and the procedures for determining eligibility under a disability category. This section also discusses special educational programs and eligibility for children transferring in from other states and with in the state. Information to be shared with teachers and others and parental options are also described for children not found eligible for services.

Notification to LEA

Question: Please define "may potentially be eligible". Does this mean that the name, address, telephone number and birth date for all children being served by Part C

must be sent to the school division when they reach the age of eligibility for preschool services?

Answer: Since notification to the local educational agency is a child find activity, it includes all children except (1) those who have exited or will exit Part C because they no longer meeting Part C eligibility criteria, and (2) those whose parent(s) indicate in writing that they do not want the information transmitted. (There is a place on page 7 of the IFSP for the parent to initial if they do not want the information transmitted.

Citation: 34 CFR 303.148(b)(1) – Notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act. The proposed Part C regulations out for public comment from the U.S. Department of Education retain the requirement for notification to the local educational agency.

Question: Our agency requires parent consent to release any identifying information. How can we meet this requirement?

Answer: For agencies that require written consent beyond the federal requirement of providing notice (via page 7 of the IFSP in Virginia), local systems can follow their agency requirements to obtain consent at the time of the initial IFSP for release of the child's name, address, phone number and date of birth.

Transition Planning Conference

Question: Please define "LEA participation in the Transition Planning 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 Planning Conference" means a representative from the local education agency who is knowledgeable about the services available in the local school system participates in the Transition Planning 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 system, as well as participate in developing the transition plan with the family. This may be the ECSE teacher, a speech therapist or other related service provider that see children in the ECSE program, or 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.

Question: Can the transition meeting be a group meeting including several families?

Answer: The transition planning conference must be an individual conference for each family, with the family's permission, for each child who is expected to transition to Part B.

Question: Can a community event with representatives from all of the potential transition destinations in attendance be provided in place of the Transition Planning Conference? Representatives from the school system and other transition destinations such as Head Start, private preschools, etc. could be available to provide information and answer questions about services through their agencies. Parents who have already transitioned from Part C to Part B could also be available for parents whose children will be transitioning.

Answer: The transition planning conference must be an individual conference for each family, with the family's permission, for each child who is expected to transition to Part B. A community event, such as described in the question can be held to support and/or supplement the individualized transition planning conference, but can not be held IN PLACE OF the transition planning conference.

Question: If parents choose not to participate in a Transition Planning 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 school services.

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

Answer: Part C should check with the school division preschool 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

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

Answer: Identifying information and a request for an evaluation of a child with a disability given to the special education director or designee of the school division is considered a referral. The information can be provided through the mail or over the phone. The time the director receives the information is considered the referral. Additional information (paper) 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. This allows the school division to decide if they need to go to the Child Study Team to review the information they have and determine what additional information is needed or if they can proceed directly to evaluation and eligibility.

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: The referral received/start date is the date the referral is received by the special education director or the designated person in the local school district. 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 systems should have a mechanism in place for

an alternative person to receive the referrals when the designated person is absent. It is recommended, but not required that the family sign the consent to release information prior to making or receiving the referral.

Question: Is the referral from Part C a referral to Child Study or a referral for evaluation?

Answer: It is a referral for evaluation. Referrals from Part C are considered a referral of a child with a disability and should go to evaluation, unless information is stated otherwise. School divisions may use the child study team to decide what additional information is needed to go to eligibility, but this happens within the 65-day timeline for the eligibility team meeting.

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 full referral. 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 what the request is for.

Question: Is it ok for the school district 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 disability.

Question: Some referrals from Part C are not going through to eligibility. Instead the Child Study committee 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: If the family agrees to this and signs as such, then that was the parent choice. The school division can recommend, but the parent makes the final decision. If the program is a school division run preschool program providing FAPE (free and appropriate public education), the child cannot remain in Part C and receive school services. The eligibility needs to be completed and an IEP developed.

Question: If a child goes through the transition process from C to B prior to their 3rd birthday and the family chooses for the child to continue Part C services until the child’s 3rd birthday, can the IEP start date reflect the child’s 3rd birthday? Example: Eligibility meeting is held in January. 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 child may remain in Part C until the child’s third birthday. The IEP start date may be that of the child’s third birthday, the date services are to start.

Question: What if we don’t 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 eligibility and IEP development in order for the child to start school on day 1. (For example, the parent who has previously not consented to a referral to the school system changes their 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 time line for eligibility.

Question: "Part B SPED directors have told us that Part C should not be accepting new referrals for children who are 2 ½ or older. They have requested that we refer these families 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 system 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: Part C cannot refuse to accept a referral for a child who is under three years of age. Part C must inform parents of their options for Part B or Part C. If a family chooses to start with Part C and is found eligible, the individual child transition requirements must be followed including scheduling a transition conference, and making the referral to Part B within the required timelines unless the referral is too close to the child's third birthday to meet the time requirements. Receiving a referral too late to meet the 65-day timeline is an allowable reason for the child not to have an IEP in place by their third birthday. The family can choose to refer themselves to Part B at the same time they make the referral to Part C. They should make both systems aware of the dual referral. Part C and Part B should work together during the evaluation process so evaluations will not be duplicated.

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 automatically go to the evaluation/eligibility process (with the 65-day timeline starting at the time the referral is received by the designated person).

Evaluation / Eligibility / Eligibility Meeting

Question: Part C has an eligibility category 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 not automatic eligibility based on diagnosis, as there is in Part C. Children must be found in need of specialized education services to learn in order to be eligible for services. Although a local school division is not required to identify children by disability category, a child must meet the eligibility criteria for services under one or more of 14 disability categories in order to receive services. Preschool children may be found eligible under the category of developmentally delayed. School divisions are, however, required to report children by category for state and federal funding.

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 evaluations, etc., must be considered when making the determination about whether or not a child is eligible for Part B services. The eligibility/IEP team will likely supplement the available information with additional assessments and/or observation(s) of the child.

Question: Referrals from Part C for full evaluations do not always have the same testing components completed for the child. Child study committees sometimes decide to do only a speech evaluation, even though the referral clearly requests a full evaluation.

Answer: A full evaluation does not require multiple components; it means evaluation rather than screening. Information from the latest IFSP could be added to this evaluation for eligibility purposes. Doing just a speech evaluation for speech language based on the information gathered is acceptable. If only speech is being considered, there should also be an educational screening to see if other components 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: Education and/or Speech/Language Therapy are not there to teach English. You will need to do a family study to determine what the "real" barrier is. Laws have not changed and require evaluations to be presented in the child's first language.

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

Answer: According to IDEA 2004, the public agency must ensure that the IEP Team for each child with a disability includes:

- The parents of the child;
- Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- A 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.

IEP Meeting:

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: Yes. The eligibility meeting is the first IEP TEAM meeting. A person knowledgeable in the field of the evaluation must be at the eligibility meeting. 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 meeting?

Answer: Yes

Timelines

Question: Please clarify the “90 day timeline”, 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 districts with “rolling admissions”?

Answer: An individual transition planning conference between the family, Part C and the local school division must be held, with parent approval, 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 planning conference must be held at least 90 days before the start of the school year. Some local school divisions allow eligible children to begin early childhood special education services throughout the year, as they turn 2. In this case, the transition planning conference must be held at least 90 days before the child turns 2.

Question: Does a 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 of a child with a disability. If the parent does not want a full evaluation, it is acceptable to tell the parent to ask for a screening.

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: 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: The Part C referral starts the 65-day timeline, can we start the 65-day timeline when a parent registers child?

Answer: The 65-day timeline starts when the designated person receives the referral. The referral can be via mail, fax or phone. Requesting that a parent register a child can be part of the 65-day process but cannot delay the evaluation and eligibility meeting. If you don’t have the identifying information, you can wait to enroll the child, but you CANNOT put off eligibility determination and development of the IEP.

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 you are awaiting paperwork that will effect the possible eligibility decision, you still need to have an eligibility meeting and find the child eligible or not based on the information

available. Paperwork needed for enrollment or registration is not required for eligibility and cannot delay the eligibility determination.

Question: How does summer affect the 65-day timeline? For example, can a school division exclude summer from the 65-day timeline (and not accept or act on referrals during the summer months)?

Answer: Summer months are considered the same as other months of the school year. School systems cannot refuse to accept referrals, nor can they delay processing referrals because it is summer. The 65-business day timeline continues during the summer.

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 districts that elect to observe 4-day workweeks in the summer.

Question: Why is Virginia keeping a 65-day timeline from referral to eligibility determination when the reauthorized IDEA changed the timeline to 60 days?

Answer: The 60-day timeline starts from the date the parent consents to the eligibility determination process. Virginia elected to continue to start the timeline at referral rather than at time of parent consent and retain the 65-day timeline (with approval from the federal government).

Question: Is it ok to wait until the child turns two years old before starting the transition process (transition planning conference, eligibility determination, IEP meeting)?

Answer: This depends on when the family would like the child to transition to school division services. In Virginia, children are age eligible to start school at the beginning of the school year (August/September) 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 systems required to accept children who meet the local system 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 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 on their third birthday. Some local systems 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: Not having rolling enrollment only pertains to children turning two after September 30. Admission during the school year for children reaching their third birthday is the standard. Localities may not use state or federal funds for children who are not age eligible. Therefore it is a local decision whether to serve child who turn two after Sept. 30 for that school year.

Question: What dates can be on an IEP and when do IEP services begin?

Answer: The date of the IEP meeting is the review date for the IEP annually. 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. So the IEP review date will be May and the services will start the first day of school. If the child is to begin during the school year and the school division is providing transportation, the meeting could take place two weeks before services are to start. 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 5 business days 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 should 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 are not going to Part B). The “plan” can be documented in contact notes and/or on page 7 of the IFSP. If it is documented in a contact note, then a notation must be made on page 7 of the IFSP referring to the contact note.

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 plan developed during the transition conference would list transition steps that were identified during the meeting and/or note that the family requested time to think about the information discussed and that follow-up will occur at a given time to determine with the family how they would like to proceed with transition planning. As discussions continue, the Service Coordinator must document the additions and/or changes to the Transition Plan that was started in the Transition Planning Meeting.

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, who attended and the resulting transition plan can be documented in a contact note and/or on page 7 of the IFSP. If this information is documented in a contact note, then a notation must be made on page 7 of the IFSP referring to the contact note.

Question: Can Page 9 of the IFSP be used to document approval for the Transition Planning Conference?

Answer: If the plan to hold the Transition Planning Conference is documented on the IFSP Review Form - Page 9, and the family signed the page, indicating their approval, then this page can serve as documentation that the family agreed to hold the Transition Planning Conference.

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. Based on recommendations from the IFSP Stakeholder Group, the revised IFSP form has a place on page 7 to document the family's approval. In addition, the Part C Office will develop a transition conference approval form that local systems may use to document family approval if they prefer not to do so on the IFSP.

Citation: Section 637, (a)(9)(A)(ii)(II) of the Individuals with Education Act 2004 as amended - 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 such parties, not more than 9 months) before the child is eligible for the pre-school services, to discuss any such services that the child may receive.

Question: If a child is not referred to school until his/her third birthday because the family did not consent to 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 system's control, this child would not be counted in the compliance data.

Question: Are schools required to document specific reasons beyond "parent reason" or "system reason" when Indicator 12 was not met?

Answer: Local school agencies must collect the specific reasons for not meeting Indicator 12. The data collection document includes reasons such as inclement weather, additional testing needed, families moving into a system after the testing was started elsewhere, and parental refusal to make the child available for testing after consenting to the evaluation. Special education directors or the division data managers have a spreadsheet with several more in-depth reasons listed. Systems are encouraged to add narrative in the comments section to explain why timelines were not met.