



UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, DC 20202

OSEP QA 21-07

RETURN TO SCHOOL ROADMAP: CHILD FIND, REFERRAL, AND ELIGIBILITY UNDER PART C OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)

October 29, 2021

The U.S. Department of Education (Department), Office of Special Education and Rehabilitative Services (OSERS) has received requests from a diverse group of stakeholders asking that the Department clarify expectations and requirements for implementing the [Individuals with Disabilities Education Act \(IDEA\)](#) in light of the many challenges of the COVID-19 pandemic and as more schools and programs are returning to in-person services. These inquiries address a range of topics, such as: meeting timelines, ensuring implementation of initial evaluation and reevaluation procedures, determining eligibility for early intervention, special education and related services, and providing the full array of early intervention services and special education and related services that children with disabilities need in order to receive a free appropriate public education (FAPE).¹ The purpose of the Return to School Roadmap IDEA guidance documents,² which focus on school and program reopening efforts and in-person service delivery, is to support the full implementation of IDEA requirements. The documents also serve to clarify that, regardless of the COVID-19 pandemic, or the mode of intervention or instruction, children with disabilities are entitled to FAPE, and infants and toddlers with disabilities and their families are entitled to appropriate IDEA Part C services. It is also important to note that in order

¹ Free appropriate public education means special education and related services that (1) are provided at public expense, under public supervision, and without charge; (2) meet the standards of the state educational agency (SEA), including the requirements of IDEA; (3) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (4) are provided in conformity with an individualized education program that meets the requirements of 34 C.F.R. §§ 300.320 through 300.324. 34 C.F.R. § 300.17.

² Other than statutory and regulatory requirements included in this Q&A document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The Department has determined that this document provides significant guidance under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007). The questions and answers in this document are not intended to be a replacement for careful study of IDEA and its implementing regulations. The IDEA, its implementing regulations, and other important documents related to IDEA and the regulations are found at: <https://sites.ed.gov/idea/>

to fully implement IDEA requirements, communications with limited English proficient parents must be made in their native language.

The Department is issuing this guidance to State lead agencies (State LAs), early intervention service (EIS) providers, parents, and other stakeholders to reaffirm the importance of appropriate implementation of the child find obligations under Part C of the IDEA. Under Part C of the IDEA, each State LA and its EIS providers are responsible for implementing a child find system that identifies, locates, and evaluates, as early as possible, all infants and toddlers with disabilities, birth to age three, who may require early intervention services. These child find and related requirements are reflected in the IDEA and its implementing regulations in 20 U.S.C. § 1435(a)(5)-(6) and 34 C.F.R. §§ 303.313, 303.115, 303.116, and 303.300 through 303.322.

State Early Intervention Child Find Systems

The Department understands that, during earlier stages of the COVID-19 pandemic response, programs were not open for in-person activities, and fewer infants and toddlers were in early care and education programs and had fewer pediatrician visits. During this time, data indicate that referrals to the IDEA Part C early intervention system decreased.³ While referrals to Part C have increased, they are still not back to pre-pandemic levels, and the COVID-19 pandemic is still impacting a number of communities. As the nation enters this new stage of the COVID-19 pandemic, State LAs should consider enhancing and refocusing their child find efforts to make sure that they are sufficiently robust to ensure the appropriate referral, evaluation, and identification of all infants and toddlers who may have a disability under IDEA Part C. State LAs and EIS providers should utilize existing data systems to identify those primary referral sources that saw the biggest decrease in referrals during the pandemic and consider targeting strategies to increase child find efforts with these sources. State LAs should also consider re-focusing their public awareness activities, under 20 U.S.C. § 1435(a)(6) and 34 C.F.R. §§ 303.116 and 303.301, by using a variety of methods to inform the public including: posters, pamphlets, displays, billboards, toll-free numbers, websites, videos, TV, radio, newspaper releases, and advertisements to effectively reach populations of children who may have been under identified during earlier stages of the pandemic.

In addition, State LAs and EIS providers should examine equity issues that may exist in the child find identification process, including equity issues that predate the pandemic. This includes analyzing data to examine if there are communities where there are limited referrals or if there are disparities in the economic status or race and ethnicity of families referred to Part C. Based

³ States reported to OSEP in their Federal Fiscal Year (FFY) 2019 State performance plans/annual performance reports (SPP/APRs) for the period July 1, 2019, through June 30, 2020, IDEA Section 618 data and through other sources that the number of children referred to Part C of the IDEA decreased.

on these data, State LAs and EIS providers should identify specific outreach strategies to connect with these typically underserved communities. The IDEA Part C statute and regulations specifically identify many subpopulations where coordination with other organizations is critical to an effective child find process.⁴ These include in 34 C.F.R. § 303.302(b) the identification of Native American infants and toddlers residing on reservations; infants and toddlers who are homeless, in foster care, and wards of the State; infants and toddlers identified under the Child Abuse Prevention and Treatment Act (CAPTA) in substantiated cases of abuse or neglect; and at-risk infants and toddlers who have been identified as directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

Under IDEA Part C, a comprehensive child find system includes:

- Public awareness program (34 C.F.R. §303.301);
- Child find activities including coordination with other relevant State agencies (34 C.F.R. § 303.302);
- Referral procedures, including referral timeline (7 days), (34 C.F.R. § 303.303) and post-referral timeline (45 days) (34 C.F.R. § 303.310);
- Screening procedures (at the State’s option) (34 C.F.R. § 303.320);
- Procedures for evaluation of the child and assessment of the child and family (34 C.F.R. § 303.321); and
- Procedures for when there is a determination that a child is not eligible (34 C.F.R. § 303.322).

Referral procedures (34 C.F.R. § 303.303)

Primary referral sources must refer a child to Part C within seven days of when the child is identified as being potentially eligible for IDEA Part C services. 34 C.F.R. 303.303(a)(2)(i). If the State LA or EIS provider determines that a child is suspected of having a disability, IDEA Part C requires, upon receipt of parental consent, a timely, comprehensive, multidisciplinary evaluation to determine the child’s eligibility.

If the child is not determined eligible after an evaluation is conducted or if the child is not evaluated, the State LA must ensure that prior written notice is provided to the parent under 34 C.F.R. § 303.421, which informs the parent of dispute resolution options under 34 C.F.R. § 303.430.

If the child is determined eligible, the initial child and family assessment must be conducted, and the initial individualized family service plan (IFSP) meeting must be held within 45 days of

⁴ The State must ensure that the child find system is coordinated with specific agencies, including the State agency responsible for administering CAPTA, the State Early Hearing Detection and Intervention system, the Home Visiting program under Maternal and Child Health, Child Care programs, and the Children’s Health Insurance Program. See 34 C.F.R. § 303.302.

referral. 34 C.F.R. §§ 303.310 and 303.321. This timeline requires the following occur within 45 days of a child's referral: (1) any screening offered by the State; (2) the initial evaluation; (3) the initial child and family assessment; and (4) the initial IFSP meeting. The 45-day timeline requirement includes two allowable exceptions: (1) the child or parent is unavailable to complete one of the following — the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or (2) the parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the State LA or EIS provider to obtain parental consent. If the child is determined eligible under 34 C.F.R. § 303.321(a)(1)(ii), an initial child and family-directed assessment is conducted to identify the child's unique strengths and needs as well as the family's resources, priorities and concerns and supports and services and supports to enhance the family's capacity to meet the developmental needs of the child.

34 C.F.R. § 303.321(c)(2).

The State LA may also adopt screening procedures, consistent with the requirements of 34 C.F.R. § 303.320, to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of having a disability. Screening (if a State has adopted such procedures) requires parental notice and consent within the 45-day timeline. As part of the screening process, at a parent's request and with parental consent, the EIS provider must conduct an initial evaluation of the infant or toddler even if the results of the screening do not identify the child as suspected of having a disability.

The Office of Special Education Programs (OSEP), which is responsible for administering the Federal IDEA Part C formula grants program, has developed a model [Child Find Self-Assessment \(CFSA\)](#) as a tool for State IDEA Part C programs to assess their child find system for identifying, locating, and evaluating all infants and toddlers with disabilities and developmental delays. OSEP strongly encourages States to utilize the CFSA as a tool to assist with implementing best practices for child find.

FREQUENTLY ASKED QUESTIONS

Q1: What is the responsibility of the State LA and its EIS providers if a referral was received, but the parent was not contacted due to the COVID-19 pandemic?

A1: The Department realizes that, during the COVID-19 pandemic, some families were not contacted due to multiple circumstances (office closures, stay-at-home orders, etc.), but the State LA and its EIS providers should give immediate and high priority to identifying these children and contacting their parents. States must also collect and report data on these referrals, including data on any noncompliance with 34 C.F.R. §303.310, under Indicator 7 (45-Day Timeline) in their State Performance Plan/Annual Performance Report (SPP/APR). Further, in circumstances where noncompliance is identified, the State LA must ensure that each individual case of noncompliance is corrected, unless the child is no longer within the jurisdiction of the EIS program and provider, consistent with [OSEP Memorandum 09-02](#)⁵ (OSEP Memo).

If the child is now over age three, the Department strongly encourages the State LA and EIS providers to provide parents with information about the IDEA Part B program and to work closely with the State educational agency (SEA) and local educational agencies (LEAs) in these circumstances to help those agencies meet their respective child find responsibilities under Part B of the IDEA. State LAs and EIS providers should use their data systems and review their child find policies and procedures to ensure that parents of all children who were referred and not contacted receive appropriate information and, where appropriate, evaluations and services.

Q2. What should the State LA and its EIS providers do if the parent declined to consent to an evaluation to determine their child's eligibility or the parent consented to an evaluation and the child was determined eligible, but then the parent declined Part C services?

A2: If a parent declined to either consent to an evaluation to determine eligibility for Part C or declined consent for the provision of Part C services after their child was determined eligible, the State LA and EIS provider are not required to conduct an evaluation or provide services under IDEA Part C. State LAs and EIS providers should have clear and complete records that document the parent's decision to decline the evaluation or Part C services offered. (34 C.F.R. §303.310(c)(1)). However, in both situations, the parent's decision to decline consent to an evaluation or decline consent to Part C services may have potentially been due to the pandemic.

⁵ [OSEP Memo 09-02](#) provides guidance regarding the steps States must take to report on the correction of noncompliance in the APR required under Sections 616 and 642 of the IDEA.

As communities move forward in responding to the pandemic, the Department highly encourages State LAs and EIS providers to follow up with these families to determine if circumstances have changed and if families are now interested in having their infant or toddler evaluated or receive early intervention services. For those families who did not provide consent to evaluate, programs should consider sending a communication to parents, including child find materials, that acknowledges family situations and priorities may have shifted and that State LA and EIS providers remain committed to supporting the child and family. In situations when the child was found eligible for Part C services, but the parent declined consent to the provision of services, the Department encourages State LA and EIS providers to re-engage the parent to develop and/or implement the IFSP.

In circumstances where the child has since turned three, State LAs and EIS providers should provide parents with information about the IDEA Part B program as well as information about the LEA responsible for serving the child, as appropriate. The Department also encourages State LAs to develop a coordinated response to the pandemic to ensure that EIS providers are prepared to broadly identify other State and local resources and share information with families about additional resources and supports available in the State, including those funded under the American Rescue Plan.

Q3. What is the responsibility of the State LA and its EIS providers if a referral was made and the parent provided consent to an evaluation, but the child's evaluation was not conducted?

A3: State LAs and EIS providers may have been unable to conduct an evaluation due to circumstances related to the COVID-19 pandemic (e.g., stay-at-home orders and physical distancing requirements prevented an in-person evaluation). If the child was referred and the parent consented to an evaluation, but the evaluation was not conducted as required within 45 days of referral, regardless of the reason, State LAs and EIS providers must conduct the evaluation as soon as possible to determine the child's eligibility under IDEA Part C assuming the child is under three years of age. The IDEA Part C regulations at 34 C.F.R. § 303.321(a)(1) require that once parental consent has been obtained, if the child is suspected of having a disability, the child must receive a timely, comprehensive, multidisciplinary evaluation unless the child's eligibility is established by medical or other records under 34 C.F.R. § 303.321(a)(3)(i).

The Department strongly encourages States to prioritize the longest pending requests for evaluation. If the child is determined eligible after the evaluation, the child and family assessments and the initial IFSP meeting must also be conducted as soon as possible (assuming the child is under three years of age). The State must document any applicable exceptional family circumstances in the child's early intervention records. See 34 C.F.R. §303.310(b)-(c). States must also collect and report data on these evaluations, including

data on any noncompliance with 34 C.F.R. §303.321(a)(i), under Indicator 7 (45-Day Timeline) in their SPP/APR. Further, in circumstances where noncompliance is identified, the State LA must ensure that each individual case of noncompliance is corrected, unless the child has turned three or is no longer within the jurisdiction of the EIS program and provider, consistent with [OSEP Memo 09-02](#).⁶

If the child is now over the age of three, the Department strongly encourages State LAs and EIS providers to provide parents with information about the IDEA Part B program as well as contact information for the LEA responsible for serving the child, as appropriate. The State LA and EIS providers should work closely with the IDEA Part B SEA and LEAs in these circumstances to help those agencies meet their respective child find responsibilities under Part B of the IDEA. It is important for State LAs to collaborate with EIS providers, LEAs, local childcare programs, home visiting programs, and Head Start and Early Head Start programs to ensure that parents of children who were referred but not evaluated receive information about these and other available programs and services.

Q4. May the State LA and its EIS providers conduct a virtual (i.e., not in-person) screening or evaluation of the infant or toddler if a parent requests it instead of an in-person screening or evaluation?

A4: As State LA and EIS providers return to in-person services, they should also prepare to return to in-person screening and evaluations. However, if a parent requests that a screening or evaluation be conducted virtually, the State LA must determine first if its policies permit virtual screenings and/or evaluations. Additionally, the State must determine if the screening or evaluation instruments would yield valid results if they are administered virtually.

Under 34 C.F.R. § 303.320, the lead agency may adopt screening procedures to determine if a child referred to Part C is suspected of having a disability. Not all States have adopted procedures to permit screening under Part C of the IDEA. Assuming a State has adopted policies and has screening or evaluation instruments that can be administered remotely, the State LA and its EIS providers may be able to offer parents the flexibility of conducting the screening or evaluation remotely. State LAs, EIS providers and the qualified personnel conducting the evaluation should exercise judgement in assessing whether the suspected disability may be identified through screening and/or evaluations conducted virtually rather than in-person. The State LA and its EIS providers may also

⁶ [OSEP Memo 09-02](#) provides guidance regarding the steps States must take to report on the correction of noncompliance in the APR required under Sections 616 and 642 of the IDEA.

determine eligibility based on existing medical or other records in lieu of conducting an evaluation under 34 C.F.R. § 303.321(a)(3)(i).

If after a screening is conducted and a child is suspected of having a disability, or if the parent requests an evaluation during the screening process, an evaluation must be conducted to determine eligibility once parental consent for the evaluation is obtained. If the parent consents to a screening and the screening indicates that the child is not suspected of having a disability, the State LA or EIS provider must provide notice under 34 C.F.R. § 303.421 that describe the parent's right to request an evaluation.

The State LA and EIS providers must ensure that any screening and evaluation tools that are administered virtually meet standards for technical adequacy and are nondiscriminatory in implementation under 34 C.F.R. § 303.321(a)(4). The State LA should implement these tools consistently and appropriately to minimize over- or under-identification of infants and toddlers with disabilities for early intervention services. The State LA's child find responsibilities under 34 C.F.R. § 303.302 are to locate and identify eligible children under Part C of the IDEA as early as possible and to coordinate with other State agencies and programs, including those that administer the foster care, CAPTA, and homeless programs.