

OSEP Early Childhood Transition FAQs¹ SPP/APR Indicators C-8 and B-12²

Question	OSEP Response
Questions related to SPP/APR Indicator C-8A	
C-8A: Percent of all children exiting Part C who received timely transition planning to support the child’s transition to preschool and other appropriate community services by their third birthday including: IFSPs with transition steps and services.	
1. How does the requirement under IDEA section 636(a)(3) and (d)(8) to include appropriate transition steps and services on the IFSP relate to the requirement to develop a transition plan under IDEA section 637(a)(9)(C)?	The transition plan referenced in IDEA section 637(a)(9)(C) is part of the individualized family service plan (IFSP) that is developed after the child turns two and before the child’s third birthday and it includes the appropriate transition steps and services required under IDEA section 636(a)(3) and (d)(8).
2. Must the lead agency hold the IFSP meeting to develop the transition plan under IDEA section 637(a)(9)(C) at the same time as the transition conference under IDEA section 637(a)(9)(A)(ii)(II) and (III)?	The lead agency may, but is not required to, hold the meeting to develop the transition plan in the IFSP (to identify appropriate steps and services) under IDEA sections 636(a)(3) and (d)(8) and 637(a)(9)(C) at the transition conference held under IDEA section 637(a)(9)(A)(ii)(II) and (III). In most instances, for children potentially eligible under Part B, the transition plan is developed with the IFSP team (including the parent) and the LEA representative as part of the transition conference. In some instances, the transition plan may be ongoing and be part of the IFSP once the toddler with a disability turns two years old and the transition conference for a child potentially eligible for Part B is conducted as an additional separate meeting to discuss Part B preschool services.
3. How are families of toddlers with disabilities included in the transition plans as required by IDEA section 637(a)(9)(A)(i)?	Under IDEA section 637(a)(9)(A)(i), the family of a toddler with a disability is included in the transition plan (which includes appropriate transition steps and services on the IFSP) because the transition plan is developed with the family at an IFSP meeting or at the transition conference (which, as noted above, can be the same meeting). The IFSP team (which includes the parent) is responsible for developing the transition plan.
4. What is the IFSP team’s responsibility in reviewing program options for the toddler with a disability as required by IDEA section 637(a)(9)(B)?	As part of the IFSP meeting to develop the transition plan or at the transition conference, the IFSP team (which includes the parent) must review, under IDEA section 637(a)(9)(B), the program options for the toddler with a disability for the

¹ These frequently asked questions (FAQs) address the State’s responsibilities under the Individuals with Disabilities Education Act (IDEA) to ensure a smooth transition for children served in Part C and referred to Part B as these children approach their third birthday.

² SPP/APR Indicator B-11 is discussed only in relation to SPP/APR Indicator B-12.

Question	OSEP Response
period from that child’s third birthday through the remainder of the school year.	
Questions related to both SPP/APR Indicators C-8B and C-8C	
<p>C-8: Percent of all children exiting Part C who received timely transition planning to support the child’s transition to preschool and other appropriate community services by their third birthday including:</p> <p>B. Notification to LEA, if child potentially eligible for Part B.</p> <p>C. Transition conference, if child potentially eligible for Part B.</p>	
<p>5. The APR uses the term “potentially eligible” in the measurement for SPP/APR Indicators C-8B and C-8C, how does that term apply and who defines the term: Part C or Part B?</p>	<p>Under IDEA section 637(a)(9)(A)(ii)(II), the Part C lead agency must ensure that timely transition conferences are held for Part C children who may be eligible for services under Part B. Under SPP/APR Indicators C-8B and C-8C, the Part C lead agency must report on LEA Notification and timely transition conferences for children potentially eligible for Part B. [For the definition of LEA Notification, see responses to Questions 7 and 8.] “Potentially eligible for Part B” has the same meaning as children who may be eligible for Part B under IDEA section 637(a)(9)(A)(ii)(II).</p> <p>The Part C lead agency establishes the State policy regarding which children are considered “potentially eligible under Part B.” In establishing this policy, the lead agency should review carefully, ideally in collaboration with the SEA, the Part C and Part B eligibility definitions, including the State definitions of developmental delay. The determination of whether a particular Part C toddler with a disability is potentially eligible for Part B is made by that toddler’s IFSP team as part of the transition process. The information may be included in the toddler’s IFSP once that child turns two and be part of the transition plan.</p> <p>The importance of providing early LEA Notification for a toddler with a disability served in Part C who is potentially eligible under Part B is that once the LEA receives LEA Notification for such a child, the LEA must treat this as an initial referral to Part B and provide notice of procedural safeguards to the child’s parent under 34 CFR §300.504(a)(1). Additionally, if the LEA suspects that the child has a disability, it must also initiate the evaluation process under Part B, and if the child is determined eligible under Part B, develop and implement an individualized education program (IEP) by the child’s third birthday (see</p>

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	<p>response to Question 33). Separately, the SEA must report on these children under SPP/APR Indicator B-12 (see responses to Questions 24-32).</p> <p>Thus, while the Part C lead agency is responsible for establishing the State policy in defining “potentially eligible for Part B”, because the Part C lead agency, SEA and LEA all have transition responsibilities that hinge on this definition, best practice dictates that the policy reflect the collaboration between the Part C lead agency and the SEA. Such collaboration would be part of an interagency agreement on early childhood transition that is required under 34 CFR §303.148(b)(4) when the SEA is not the lead agency.</p>
<p>6. Can the lead agency’s invitation to the LEA to attend a transition conference under IDEA section 637(a)(9)(A)(ii)(II) meet the lead agency’s responsibility to provide LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) and reported in SPP/APR Indicator C-8B?</p>	<p>Yes. The requirement to conduct LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) and to conduct a transition conference (with the approval of the family) for children potentially eligible under Part B under IDEA section 637(a)(9)(A)(ii)(II) are two separate requirements. However, the invitation to the LEA representative for the transition conference for those children potentially eligible for Part B can serve as the LEA Notification for such children, provided that the invitation includes the information identified in response to Question 8, and be reported in Indicator C-8B.</p> <p>If a parent does not provide approval to conduct the transition conference, the State must still provide LEA Notification for these children unless the State has adopted an opt-out policy and the parent has opted out of LEA Notification. Given that an IEP must be developed and implemented by the third birthday of a child served in Part C and who transitions from Part C to Part B (under IDEA section 612(a)(9) and 34 CFR §300.124(b)), it is important that the Part C and B representatives work together to ensure that LEA Notification and the transition conference for children potentially eligible under Part B occur in a timely manner for toddlers with disabilities to enable both the Part C and Part B agencies to meet their respective responsibilities.</p>
<p>Questions related to C8B</p> <p>C-8B: Percent of all children exiting Part C who received timely transition planning to support the child’s transition to preschool and other appropriate community services by their third birthday including: Notification to LEA, if child potentially eligible for Part B.</p>	
<p>7. What is LEA Notification and who are the group of</p>	<p>IDEA section 637(a)(9)(A)(ii)(I) requires the lead agency to notify the LEA</p>

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<p>children that are the subject of the LEA Notification requirement under IDEA section 637(a)(9)(A)(ii)(I) and reported in SPP/APR Indicator C-8B?</p>	<p>where the toddler with a disability resides that the toddler will shortly reach the age of eligibility for Part B services (i.e., three years old). Under SPP/APR Indicator C-8B, the Part C State lead agency must report on this LEA Notification responsibility only for those toddlers with disabilities who are potentially eligible for services under Part B (i.e., those children referred to Part B).</p>
<p>8. What information must be included in the LEA Notification for toddlers with disabilities under IDEA section 637(a)(9)(A)(ii)(I) and reported in SPP/APR Indicator C-8B?</p>	<p>The LEA Notification must include information to assist the LEA and SEA in their child find responsibilities under Part B. Specifically, the lead agency must transmit the toddler’s name and date of birth, and parent contact information (including names, addresses and telephone numbers). The LEA Notification may also include the service coordinator’s name and contact information and the language(s) spoken by the child and family to further assist the LEA in meeting its child find responsibilities.</p>
<p>9. To whom must the lead agency provide the LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) and reported in SPP/APR Indicator C-8B?</p>	<p>The LEA Notification must be provided to the LEA where the toddler with a disability resides. The lead agency may provide the SEA with the child find information under an interagency agreement or other mechanism that provides for the SEA to forward the applicable information to the LEA in which the toddler with a disability resides.</p>
<p>10. May a State send electronic notification to the SEA instead of the LEA to meet the LEA Notification requirement under IDEA section 637(a)(9)(A)(ii)(I) and for reporting purposes under SPP/APR Indicator C-8B?</p>	<p>The LEA Notification must be provided to the LEA where the toddler with a disability resides. The lead agency may provide the SEA, electronically or in hard copy, with the child find information under an interagency agreement or other mechanism that provides for the SEA to forward the applicable information to the LEA in which the toddler with a disability resides. It is up to the State to determine the most appropriate and effective method.</p>
<p>11. What is an “opt-out” to LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) and what must a State do before it can implement an “opt-out” policy?</p>	<p>Under IDEA section 637(a)(9)(A)(ii)(I) of the Act, the lead agency must disclose to the LEA where the child resides, limited information that is needed to enable the lead agency, as well as the LEA under Part B of IDEA, to identify all children potentially eligible for services under Part B of IDEA. A lead agency, through an opt-out policy, may require parents be provided notice, prior to making the limited disclosure, of the intended disclosure and allow the parent a specified time period to object to the disclosure and thus, prevent the LEA Notification from occurring— this is an “opt-out” policy. If a parent, in any State that has adopted such an opt-out policy to LEA Notification, objects during the time period provided by the State, then the lead agency and EIS provider are neither</p>

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	required nor permitted to conduct LEA Notification. An opt-out to LEA Notification policy is generally not used by lead agencies that are also SEAs because the lead agency may directly provide the LEA and the SEA with not only the limited child find information required under LEA Notification, but also share the early intervention record; the SEA lead agency may elect, however, to provide parents the opportunity to opt out, subject to the requirements of an opt-out policy. Furthermore, if a State adopts an opt-out policy to LEA Notification, it must be on file with OSEP as part of the State's grant application.
12. Under SPP/APR Indicator C-8B, how does the State report on LEA Notification for toddlers with disabilities who may be potentially eligible for Part B and whose parents have opted out under a State opt-out policy to LEA Notification?	Under SPP/APR Indicator C-8B, the State does not include toddlers with disabilities who may be potentially eligible for Part B and whose parents have opted out under a State opt-out policy to LEA Notification in either the numerator or denominator of its calculation.
13. What must be included in a State policy that provides for opt-out to LEA Notification under IDEA section 637(a)(9)(A)(ii)(I)?	A State's opt-out policy must clarify: (1) that parental consent is not required for the lead agency to notify the LEA where the child resides and that such LEA Notification will occur in the absence of an objection by the parent; (2) the LEA Notification includes the following "child find information," namely the child's name, birth date, and parent contact information (including parents' name(s), address(es) and telephone number(s)); (3) the amount of time parents are provided to opt out; (4) how parents may opt out (i.e., orally or in writing); and (5) when parents are informed of the opportunity to opt out of LEA Notification (how the lead agency will inform parents of LEA Notification and the State's opt-out policy including any written materials or notice information; the content of this notice/information must include a description of all of the foregoing elements).
14. Who is responsible for developing the LEA Notification opt-out policy: the lead agency, the SEA, or both?	The Part C lead agency is responsible for including any policy on opt-out to LEA Notification in its Part C grant application. The policy must be subject to the Part C public participation requirements in 34 CFR §§303.110 through 303.113 and should be jointly developed with the SEA.
15. What is the difference between the opt-out to LEA Notification and family approval or parental consent at transition?	Under an opt-out policy to LEA Notification, prior to the lead agency's making the limited disclosure required by LEA Notification, parents must be provided notice of the intended disclosure and be given a specified time period to object to the disclosure and thus, prevent the disclosure/LEA Notification from occurring.

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	<p>The opt-out policy is important to distinguish from two separate consent/approval requirements at transition. First, the transition conference under IDEA section 637(a)(9)(A)(ii)(II) requires “the approval of the family” and this approval is an affirmative response that may be orally provided (unlike the opt-out policy which shifts the burden to the parent to object and assumes approval).</p> <p>Second, opt-out also differs from the consent that is required in 34 CFR §§303.402 and 303.460 to disclose personally identifiable information in the IFSP and other parts of the early intervention record to an LEA that is not a participating agency under Part C in that such consent must be in writing and informed under 34 CFR §303.401(a). As part of developing the transition plan in the IFSP under 34 CFR §303.344(h)(2), the IFSP Team may transmit (with appropriate parental consent where required) those pertinent records (such as the most recent evaluations or medical diagnosis reports) that would assist the LEA in determining whether a child is suspected of having a disability under Part B.</p>
<p>16. If a State has a birth-to-five service delivery system, can that system serve as LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) and how is this reported under SPP/APR Indicator C-8B?</p>	<p>If a State has a birth-to-five service delivery system such that the EIS provider is also the LEA where the child resides, it is presumed that LEA Notification has occurred. It is sufficient for purposes of reporting compliance under SPP/APR Indicator C-8B for the State to provide this explanation as a narrative in response to Indicator C-8B. Otherwise, LEA Notification must still occur and be reported under SPP/APR Indicator C-8B.</p>
<p>Questions related to C8C</p>	
<p>C-8C: Percent of all children exiting Part C who received timely transition planning to support the child’s transition to preschool and other appropriate community services by their third birthday including: Transition conference, if child potentially eligible for Part B.</p>	
<p>17. Must the LEA representative attend the transition conference in order for the lead agency to meet its responsibilities, under IDEA section 637(a)(9)(A)(ii)(II), to conduct the transition conference at least 90 days prior to the child’s third birthday for children potentially eligible under Part B and for reporting purposes under SPP/APR Indicator C-8C?</p>	<p>The LEA is required to participate in the transition conference under IDEA section 612(a)(9) and 34 CFR §300.124(c). However if the LEA does not participate in the conference, the Part C lead agency must still hold a transition conference under IDEA section 637(a)(9)(A)(ii)(II) at least 90 days (and at the discretion of all parties, nine months) prior to the child’s third birthday and must have invited the LEA representative to the conference. If the lead agency conducts the transition conference under IDEA section 637(a)(9)(A)(ii)(II) in a timely manner, it reports this as compliance under SPP/APR Indicator C-8C even</p>

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	if the LEA representative did not attend the conference.
<p>18. What are the lead agency responsibilities if the LEA representative does not participate in the transition conference that is conducted under IDEA section 637(a)(9)(A)(ii)(II)?</p>	<p>The lead agency must conduct the transition conference under IDEA section 637(a)(9)(A)(ii)(II) and (III) and use that meeting to develop or revise the transition plan in the IFSP (including identifying appropriate transition steps and services). In addition, the lead agency must provide parents at the conference with information about Part B preschool services, consistent with IDEA section 635(a)(6). This information includes a description of the Part B eligibility definitions, State timelines and process for consenting to an evaluation and conducting eligibility determinations under Part B, and the availability of special education and related services.</p>
<p>Late Referrals to Part C (Referral to Part C < 90 days before 3rd b-day)</p> <p>C-8: Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p> <p>A. IFSPs with transition steps and services.</p> <p>B. Notification to LEA, if child potentially eligible for Part B.</p> <p>C. Transition conference, if child potentially eligible for Part B.</p>	
<p>19. Must the State develop a transition plan in the IFSP under IDEA sections 636(a)(3) and (d)(8) and 637(a)(9)(C) when a child is referred to Part C fewer than 90 or 45 days prior to the child's third birthday? How must the State report data on these children under SPP/APR Indicator C-8A?</p>	<p>If a child is referred to Part C fewer than 45 days prior to the child's third birthday, the State may, but is not required to, conduct an initial evaluation, assessment and initial IFSP meeting for that child. The State is not required to develop a transition plan for such children and these children would not be included in the calculation under SPP/APR Indicator C-8A.</p> <p>If a child is referred to Part C between 45 and 90 days prior to the child's third birthday, then the State lead agency must conduct the initial evaluation, assessment and initial IFSP meeting. If that child is determined eligible and is receiving services under Part C (which includes service coordination services), the State must develop a transition plan (with the appropriate transition steps and services) under IDEA sections 636(a)(3) and (d)(8) and 637(a)(9)(C) and 34 CFR §§303.148(b)(4) and 303.344(h) and report on these children under SPP/APR Indicator C-8A. Generally, in these instances, the transition plan would be part of</p>

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	the initial IFSP.
<p>20. What is the responsibility of Part C regarding LEA Notification under IDEA section 637(a)(9)(A)(ii)(I) if a child is referred to Part C either less than 45 days or 90 days prior to the child's third birthday? How must the State report data on these children under SPP/APR Indicator C-8B?</p>	<p>If a child is referred to Part C fewer than 45 days prior to the child's third birthday, the State may, but is not required to, conduct an initial evaluation, assessment and initial IFSP meeting for that child. The State is not required to conduct LEA Notification for that child.</p> <p>If a child is referred to Part C between 45 and 90 days or even greater than 90 days prior to the child's third birthday, then the State lead agency must conduct the initial evaluation, assessment and initial IFSP meeting and, if the child is determined eligible and is receiving services under Part C (which includes service coordination services), the State must conduct LEA Notification for that child under IDEA sections 637(a)(9)(A)(ii)(I) and 34 CFR §303.148(b)(1), and for children potentially eligible for Part B, report on such children under SPP/APR Indicator C-8B.</p>
<p>21. What are the lead agency responsibilities regarding the transition planning conference under IDEA section 637(a)(9)(A)(ii)(II) if a child is referred to Part C less than 90 days prior to the child's third birthday? How must the State report data on these children under SPP/APR Indicator C-8C?</p>	<p>If a child is referred to Part C less than 90 days prior to the child's third birthday, the lead agency may, but is not required to, conduct a transition conference with the LEA representative, under IDEA section 637(a)(9)(A)(ii)(II). The State is not required to report data on these children under SPP/APR Indicator C-8C.</p>
Other	
<p>22. Must the service coordinator attend the initial IEP meeting if invited by the LEA at the request of the parent?</p>	<p>The service coordinator must make every effort to participate in the initial IEP meeting if invited by the LEA at the request of the parent.</p>
Questions related to SPP/APR Indicator B-11	
<p>B-11: Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.</p>	
<p>23. Can a State report under SPP/APR Indicator B-11 that the initial evaluation was completed within the required timeline if the IEP team utilizes the prior information provided by Part C and the parent to determine that the child is eligible for Part B?</p>	<p>Yes. An evaluation under Part B is defined at 34 CFR §300.15 as procedures used in accordance with 34 CFR §§300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. Under 34 CFR §300.305(a), the IEP Team and other qualified professionals, as appropriate, must review existing</p>

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	<p>evaluation data on the child, including evaluations and information provided by the parents of the child. On the basis of that review, and input from the child's parents, the IEP team and other qualified professionals, as appropriate, must identify what additional data, if any, are needed to determine, in the case of an initial evaluation, whether the child is a child with a disability, as defined in 34 CFR §300.8, and the educational needs of the child; the present levels of academic achievement and related developmental needs of the child; and whether the child needs special education and related services. If the IEP team and other qualified professionals, as appropriate, identify any additional data that is needed, the LEA must administer such assessments and other evaluation measures as may be needed to produce the additional data. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed, the evaluation for that child is complete. If the evaluation was completed within the State's required timeline, the State can then report under SPP/APR Indicator B-11 that the initial evaluation was completed within 60 days (or the State established timeline).</p>
<p>Questions related to SPP/APR Indicators B-11 and B-12</p> <p>B-11: Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe.</p> <p>B-12: Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.</p>	
<p>24. Should the SEA report children who are transitioning from Part C to Part B under both SPP/APR Indicators B-11 (timely evaluations) and B-12 (free appropriate public education (FAPE) at age 3)?</p>	<p>Yes. The SEA must report under both SPP/APR Indicators B-11 and B-12 children who are transitioning from Part C to Part B. Indicator B-11 measures the percent of children who were evaluated within 60 days of receiving parental consent for an initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe. Indicator B-12 measures the percent of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.</p>
<p>25. Must a child be included in SPP/APR Indicators B-11 and B-12 if a child who has been served in Part C moves after the child is referred to Part B but before the child is evaluated to determine eligibility for Part B?</p>	<p>A child who has been served in Part C that enrolls in another LEA after the child has been referred to Part B but before the child is evaluated to determine eligibility for Part B services can be excluded from SPP/APR Indicators B-11 and B-12. See 34 CFR §300.301(d). The child can be excluded only if the subsequent public agency is making sufficient progress to ensure a prompt</p>

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	completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.
Questions related to B-12	
B-12: Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.	
26. When does a referral to Part B occur for the purpose of the measurement in SPP/APR Indicator B-12a (the number of children who have been served in Part C and referred to Part B for Part B eligibility determination)?	Referral to Part B for the purpose of measurement in SPP/APR Indicator B-12a occurs when the LEA has been notified that a child who is served in Part C is potentially eligible for services under Part B.
27. What children must be included in measurement B-12a?	A State must include in measurement B-12a all children who have been served in Part C and referred to Part B for Part B eligibility determination. This includes children for whom the LEA has received LEA Notification prior to the child's third birthday pursuant to IDEA section 637(a)(9)(A)(ii)(I) that the child will shortly reach the age of eligibility for Part B services <u>and</u> that the child is potentially eligible for services under Part B. Children for whom the LEA has received an invitation to the transition conference convened pursuant to IDEA section 637(a)(9)(A)(ii)(II) must also be included in B-12a.
28. Must a child who is reported under SPP/APR Indicator C-8B be included in the measurement in B-12a?	Yes. A child who is reported under SPP/APR Indicator C-8B must be included in the measurement in B-12a because that is a child for whom the lead agency is responsible for notifying the LEA where the child resides prior to the child's third birthday pursuant to IDEA section 637(a)(9)(A)(ii)(I) that the child will shortly reach the age of eligibility for Part B services <u>and</u> that the child is potentially eligible for services under Part B.
29. Must a child who has been served in Part C and referred to Part B be included in the indicator measurement B-12a if the child was referred to Part C less than 90 days before the child's third birthday?	Yes. A child who has been served in Part C and referred to Part B must be included in the indicator measurement B-12a even if the child was referred to Part C less than 90 days before the child's third birthday. These children will be subtracted out per measurement B-12e when calculating the percentage of children who have an IEP developed and implemented by their third birthdays.
30. Must a child who has been served in Part C and referred to Part B be included in the measurement B-12a if the lead agency did not conduct a transition conference at least 90 days before the child's third birthday?	Yes. A child who has been served in Part C and referred to Part B must be included in measurement B-12a even if the lead agency did not convene a transition conference at least 90 days before the child's third birthday.

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31. Must a child who has been evaluated and determined eligible under Part C and referred to Part B be included in measurement B-12a if the lead agency did not conduct an initial IFSP meeting and develop an IFSP for the child?	Yes. A child who has been evaluated and determined eligible under Part C and referred to Part B must be included in measurement B-12a even if the lead agency did not conduct an initial IFSP meeting and develop an IFSP for the child. A child who has been determined eligible under Part C (and thus receiving service coordination services) is considered to have been “served in Part C” for the purpose of this measurement.
32. Must a child who was referred from Part C to Part B, but never was evaluated under Part C or had an IFSP developed be included in measurement B-12a?	No. A child who was referred from Part C to Part B, but never was evaluated or had an IFSP developed should not be included in measurement B-12a. Such a child is not considered to have been “served in Part C” for purposes of this measurement. However, the child would be reported under Indicator B-11 if parental consent to evaluate under Part B was received.
33. What is the LEA’s responsibility under Part B if a child who has been served in Part C is referred to Part B?	If a child who has been served in Part C is referred to Part B, the LEA is responsible for giving the parents of the child a copy of the procedural safeguards notice. 34 CFR §300.504(a)(1). If the LEA suspects the child has a disability, the LEA must initiate the evaluation process to determine whether the child is a child with a disability. 34 CFR §300.301(b). Before conducting an initial evaluation under Part B, the LEA must, after providing the parents prior written notice consistent with 34 CFR §300.503, obtain informed consent, consistent with 34 CFR §300.9, from the parent of the child. 34 CFR §300.300(a).
Late referrals to Part C (SPP/APR Indicator B-12e) (Referral to Part C < 90 days before 3rd b-day)	
34. Is the State required to submit data for SPP/APR Indicator measurement B-12e (the number of children who were referred to Part C less than 90 days before their third birthdays) in the FFY 2008 APR due February 1, 2010?	No. For the FFY 2008 APR submission, due February 1, 2010, a State may, but is not required to, include measurement B-12e in the calculation for SPP/APR Indicator B-12.
35. What is the LEA’s responsibility under Part B for conducting an evaluation, determining eligibility, and developing and implementing an IEP by the child’s third birthday for a child who has been served in Part C and referred to Part B, but was referred to Part C less than 90 days before the child’s third birthday?	For a child who has been served in Part C and referred to Part B, but was referred to Part C less than 90 days before the child’s third birthday, the LEA is not responsible for reporting under Indicator B-12 that it has conducted the evaluation under Part B, determined eligibility, and if appropriate, developed and implemented an IEP by the child’s third birthday. For these late referrals to Part C, the LEA must conduct an initial evaluation under Part B within 60 days of receiving parental consent for the evaluation or within the State established

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	<p>timeline, even if that timeline expires after the child's third birthday. 34 CFR §300.301(c)(1). A meeting to develop an IEP must be conducted within 30 days of a determination that the child needs special education and related services. 34 CFR §300.323(c). For these late referrals to Part C, OSEP encourages the LEA to make every effort to complete the evaluation, determine eligibility, and develop and implement an IEP by the child's third birthday or as soon after the third birthday as possible.</p>
<p>36. What children must be included in SPP/APR Indicator measurement B-12e (the number of children who were referred to Part C less than 90 days before their third birthdays)?</p>	<p>The State must include in measurement B-12e all children served in Part C and referred to Part B who were referred to Part C less than 90 days before their third birthdays.</p>
<p>37. Must those children served in Part C and referred to Part B who were referred to Part C less than 90 days prior to the third birthday and reported in measurement B-12a be reported in 12e regardless of whether the LEA could report the child under measurement B-12b, c, or d?</p>	<p>Yes. A child served in Part C and referred to Part B who was referred to Part C less than 90 days before the child's third birthday must be reported in measurement B-12e even if the LEA has determined the child to be not eligible or found the child eligible and had an IEP developed and implemented by the child's third birthday. All children reported in measurement B-12e must be subtracted from measurement B-12a when calculating the percentage of children who have an IEP developed and implemented by their third birthdays.</p>
<p>Late Referrals to Part B (Referral to Part B < 90 days before 3rd B-day & Referral to Part C >90 days before 3rd b-day)</p>	
<p>38. What is the LEA's responsibility under Part B for conducting an evaluation, determining eligibility, and developing and implementing an IEP by the child's third birthday for a child served in Part C who was referred to Part C more than 90 days before the child's third birthday, but was referred to Part B less than 90 days before the child's third birthday?</p>	<p>For a child served in Part C who was referred to Part C more than 90 days before the child's third birthday, but referred to Part B less than 90 days before the child's third birthday, the LEA is responsible for ensuring that an initial evaluation under Part B is completed and, if the child is determined eligible under Part B, an IEP is developed and implemented by the child's third birthday, even if the State-established timeline for conducting an initial evaluation expires after the child's third birthday. 34 CFR §300.124(b). It is the responsibility of both programs to work together to make sure that the LEA Notification and the transition conference for children potentially eligible for Part B occur in a timely manner that enables the LEA to meet its responsibility to conduct an evaluation and, if the child is determined eligible under Part B, to develop and implement an</p>

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	IEP by the child's third birthday. The Part C lead agency and the SEA are responsible for ensuring that the Part C to Part B transition requirements are appropriately implemented and for identifying and correcting noncompliance with those requirements.
39. How does the State report under SPP/APR Indicator B-12 on a child served in Part C who was referred to Part C more than 90 days before the child's third birthday, but referred to Part B less than 90 days before the child's third birthday?	A child served in Part C who was referred to Part C more than 90 days before the child's third birthday and referred to Part B must be included in SPP/APR Indicator B-12a, even if the child was referred to Part B less than 90 days before the child's third birthday. If the child was determined to be not eligible or found eligible and had an IEP developed and implemented by the child's third birthday, the child must in addition be included in B-12b or B-12c. If parental refusal to provide consent caused a delay in the evaluation or initial services, the child must be included in B-12d. If a late referral to Part B results in the LEA determining eligibility, and if appropriate, developing and implementing an IEP after the child's third birthday, the State must include such child in measurement B-12a, but not in B-12b, c, d or e, and indicate that the reason for the delay was late referral from Part C to Part B, in addition to indicating the range of days beyond the third birthday when eligibility was determined and the IEP developed.
Other Questions related to Part B Early Childhood Transition Responsibilities	
40. If an LEA receives parental consent to evaluate a child served in Part C six to nine months prior to the child's third birthday, is the LEA required to develop and implement the IEP prior to the child's third birthday?	No. If an LEA receives parental consent to evaluate a child served in Part C six to nine months prior to the child's third birthday, the LEA is not required to develop and implement an IEP prior to the child's third birthday, but must develop and implement the IEP by the child's third birthday if the child is eligible under Part B.
41. Can a State report that an IEP for a child whose third birthday occurs during the summer is "implemented" for the purpose of SPP/APR Indicator B-12 if the date of initiation of services in the IEP is the beginning of the school year?	If the child's third birthday occurs during the summer, the IEP team must consider the date when services under the IEP will begin. 34 CFR §300.101(b)(2). The IEP team must determine if extended school year (ESY) services are necessary for the provision of FAPE to the child. 34 CFR §300.106. If the child does not need ESY services, the date of initiation of services may be the beginning of the school year and the IEP is considered "implemented" by the child's third birthday for the purpose of Indicator B-12. If an LEA knows that a child served in Part C and referred to Part B will turn age three during the summer and that appropriate LEA personnel will not be available to conduct evaluations and hold IEP meetings during the summer, the LEA must conduct the

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	initial evaluation under Part B, determine the child’s eligibility, and hold an IEP meeting before the end of the school year in order to ensure that, if appropriate, an IEP is developed and implemented by the child’s third birthday. 34 CFR §300.124(b).
42. Is the LEA responsible for inviting the service coordinator to the initial IEP meeting if the parent requests it, and is written notice to the service coordinator required?	Under 34 CFR §300.321(f), in the case of a child who was previously served in Part C, the LEA is responsible, if the parent requests it, for inviting the service coordinator to the initial IEP Team meeting. The regulation does not address whether written notice to the service coordinator is required. However, because States and LEAs are required to maintain records to show compliance with IDEA, it is good practice for the LEA keep a record of the Part C person, or persons receiving the invitation, the date the invitation was sent, and a copy of the invitation or notes from a phone call extending the invitation.
43. If a State has an exception to the 60-day timeline in State regulations allowing the parent and the LEA to agree in writing to extend the State’s evaluation timeline, can the LEA use this exception to extend development of the IEP past the child’s third birthday?	In general, all children served in Part C and referred to Part B, including those referred to Part B less than 90 days before their third birthdays, must be evaluated under Part B, and if determined eligible under Part B, have an IEP developed and implemented by their third birthdays. The LEA cannot use a State exception to the State timeline to extend the development and implementation of the IEP past the child’s third birthday. However, if a child has been served in Part C and referred to Part B, but was referred to Part C less than 90 days before the child’s third birthday, the LEA must conduct the initial evaluation in accordance with the 60-day timeline or its State-established timeline, including any exceptions, even if that timeline expires after the child’s third birthday. In these circumstances, OSEP encourages the LEA to make every effort to complete the evaluation, determine eligibility, and develop and implement an IEP by the child’s third birthday or as soon after the third birthday as possible.