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## OSEP Issues Guidance Regarding Early Childhood Transitions

Recently, the Office of Special Education Programs (“OSEP”) issued answers to frequently asked questions to address the states’ responsibilities under the Individuals with Disabilities Education Act to ensure a smooth transition for children served in Part C of the IDEA (early childhood education) to Part B (services for school-aged children). Specifically, OSEP clarified the time lines and requirements applicable to children who are referred for Part C services close to their third birthdays.

The IDEA requires the early childhood education lead agency to ensure that timely transition conferences are held at least ninety days before the child’s third birthday and to provide notice to the local school district in which the student resides of the student’s potential eligibility for Part B services. If the district suspects the child has a disability, then it must initiate the evaluation process under Part B. If the child is determined eligible for services under Part B, then the district must develop and implement an IEP by the child’s third birthday.

OSEP clarified that if a child is referred to Part C fewer than forty-five days before the child’s third birthday, the early childhood lead agency may, but is not required to, conduct an initial evaluation or to hold an initial individualized family service plan meeting. In addition, the lead agency may, but is not required to, notify the school district or hold a transition planning conference for transition to Part B services.

However, if the child is referred to Part C more than forty-five days before the child’s third birthday, then the lead agency is required to conduct an initial evaluation and hold an initial IFSP for that child. Also, the lead agency is required to notify the school district. However, the requirement to conduct a transition conference does not arise unless the child is referred to Part C greater than ninety days before the child’s third birthday.

The FAQs also clarify that school districts must be mindful of children whose third birthdays occur during the summer. If a school district knows that a child who is receiving Part C services will turn three during the summer and that appropriate district personnel will not be available to conduct evaluations and hold IEP meetings during the summer, the district must conduct the initial evaluation under Part B to determine eligibility, and hold an IEP prior to 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. If the child does not need extended school year services, then the date of initiation of services may be the beginning of the school year, and in such case, the IEP is considered to be implemented by the child’s third birthday.

As the OSEP FAQs make clear, it is important for early childhood education lead agencies and school districts to cooperate and coordinate to ensure all requirements and time lines for the transition of children from Part C to Part B are met.

Should you have any questions regarding the OSEP FAQs and its impact on your school district, please contact one of our five offices.

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