Montana Guidance:

Children Transitioning from IDEA Part C to IDEA Part B

July 2013

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Denise Juneau, State Superintendent

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Montana Guidance: Children Transitioning from IDEA Part C to IDEA Part B (July 2013)

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FOREWARD

The purpose of this guidance document is to provide clarifying information on steps in the transition process that relate to initial evaluation and eligibility determination practices for the transition of young children and their families from IDEA Part C Early Intervention (Birth to age 3) into IDEA Part B special education preschool services. It was developed collaboratively by the Department of Public Health and Human Services and the Office of Public Instruction.

This guidance is meant to assist Montana Part C providers and Montana school district personnel in facilitating a smooth and effective transition for eligible families and children.

Montana measures the success of transition for children and their families through the Individuals with Disabilities Education Act (IDEA) performance measures as outlined in the State Performance Plans (SPP) for both Part C and Part B. These performance measures relate to the assured continuum of services from Part C to Part B with no lapse or delay in services provided to the child.

This guidance document is presented in a question and answer format with attached appendices containing specific documentation used in the process. Additional information is available from the Office of Public Instruction, Special Education Division, at 406-444-5661, and the Department of Public Health and Human Services at 406-444-2995.

PART C AND PART B SPP/APR INDICATORS

As a part of the accountability requirements of IDEA each State Education Agency (SEA) and Part C Lead Agency must have on file with the Office of Special Education Programs (OSEP) a State Performance Plan (SPP). The SPP for each agency contains a number of indicators related to both compliance with IDEA requirements and performance measures related to child outcomes. The SEA and Lead Agency were required to establish targets for each indicator. Annually, the SEA and Lead Agency must submit an Annual Performance Report (APR) which describes the data related to each indicator, whether the specific targets were met, and the improvement activities that are being used to address any deficiencies evident in the data. The SPP/APR Indicators related to Part C to Part B transition are:

Part C

Indicator C8 Effective Transition

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:

1. Individual Family Service Plans (IFSPs) with transition steps and services;
2. Notification to school district, if child is potentially eligible for Part B; and
3. Transition conference, if child potentially eligible for Part B.

Part B

Indicator B11 Child Find

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.

Indicator B12 Effective Transition

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 birthday.

NOTIFICATION OF POTENTIALLY ELIGIBLE CHILDREN

Part C Agency will notify the school district of children who are potentially eligible for Part B Services (Established Condition/Developmental Delay)

1. *What is the requirement for notification of the school district?*

Discussion

Notification is required in accordance with IDEA Part C, Sec. 303.209(b)(i), which states the early intervention provider will: "notify Montana's Office of Public Instruction and the educational agency for the area in which the child resides that the child will reach the age of eligibility for services under Part B of the Act."

The Part C Agency must notify Montana's Office of Public Instruction and the school district of children who reside in the school district's education jurisdiction and who are potentially eligible for Part B IDEA preschool special education services. For this purpose, potentially eligible is considered to be those children eligible under the Part C's "established condition" or "developmental delay" category.

The Part C Agency will provide school districts and the Montana Office of Public Instruction two notifications of potentially eligible children per year: (1) the first notification will be for children who will turn three years old in September through the following August, and (2) the second notification will be for children who will turn three years old in February through the following January. It is okay that some children will be listed on two notifications during a 12-month time period.

The notification (Appendix A) must include: the child's legal first name, last name, middle initial, date of birth, the school district in which the child resides, contact information for the parent(s) and contact information for the Part C Agency Family Support Specialist who currently works with each child/family. In accordance with OSEP's guidance, the disclosure of limited personally identifiable information is allowed without parental consent under FERPA (Family Educational Rights & Privacy Act). The school district must protect this information as educational records under FERPA in a manner which will not permit personal identification of Part C children and their parents to anyone other than the school district. The Part C Agency must also maintain in the child's file a record that there has been a disclosure to the school district.

However, parents have the right to "opt out" of having the school district informed that their child will be turning three years old in the next 12 months. Prior to notification of the school district, the Part C Agency must inform parents whose children will be turning three within the next 12 months that the parents can "opt out" of the school district notification about their child. The Part C Agency must explain to parents that their privacy is protected at the school district by FERPA, that this notification is **not a referral** for Part B preschool special education services, and the potential benefits of special education services for their child. Parents, who want to "opt out" of school district notification, must sign an "opt out" form (Appendix B) which will be placed in the child's/family's file. Further, if a parent who had signed an "opt out" form changes their mind about exploring special education services for their child, the Part C Agency can assist the family in making the appropriate notification to the school district. If the family changes their mind within four months before the child turns three, the Part C Agency informs the school district and the Montana Office of Public Instruction the family decided to explore special education services.

The Part C Agency will complete the school district Notification of Potentially Eligible Children Form (Appendix A) and send it to the Special Education Director of the district or special education cooperative where the child resides. The address on the envelope should include: "Attention: school district Notification of Potentially Eligible Children from Part C."

This notification provides the school district with a list of children who will potentially transition to their school district within the next year. The list helps the school district to project future allocation of resources, as well as the

school district and the Part C Agency plan for upcoming transition conferences throughout the year. The school district should work with the Family Support Specialist for the child/family who will schedule the transition conference. The school district should not directly contact the family at this early stage of the transition process.

The school district needs to understand that families may change their mind about exploring special education services, move or leave Part C services prior to planning for a transition conference. While the Part C Agency will try to provide a timely notification to the school district of these situations, the Part C Agency did not expect the situation either.

Federal Regulations
34 CFR §637(a)(9) of the IDEA Statute for Part C

INITIAL TRANSITION PLANNING PRIOR TO THE CONFERENCE

- Individualized steps and services added to IFSP
- Explanation of 3-year-old choices regarding transition

2. ***What is the role of the Family Support Specialist in the initial transition planning with the family prior to the Transition Conference?***

Discussion

While it might seem very early when a family starts Part C services, the Family Support Specialist (FSS) begins to talk to the family about the fact that Part C services will end when their child turns three years old and that there may be other service options for their child after Part C services end. The Family Support Specialist meets with the family to identify and document the specific steps and actions that will support the child and family through the transition process. These individualized steps and actions are documented on the transition plan as an outcome and objectives and are included in the Individualized Family Service Plan (IFSP). The transition plan outcomes and objectives must be in the IFSP that will be in place when the child reaches **two years, three months of age** (or their first IFSP for a child who enters Part C services after two years, three months of age). All of these children in Part C must have a transition plan in their IFSP, even when the family is not interested in pursuing other services and the child will be at home.

The Family Support Specialist ensures that the family is fully informed of the array of service and program options available for their child, including: staying home; Part B preschool special education services; Head Start; childcare centers; private preschools or other community-based settings, etc. These options include settings for all children in order for the child to be with typically developing peers. When appropriate, the transition outcome in the IFSP will include the steps for the family to explore these service options and inviting personnel from these programs to the Transition Conference.

In addition to the discussion of future service options discussed above, the transition outcome in the IFSP will consist of, as appropriate, procedures to prepare the child for changes in service delivery, including steps to help the child (and family) adjust to and function in a new setting, and with parent consent, the transmission of information about the child (i.e., current IFSP, child assessment, and diagnosis, if appropriate) to ensure continuity of services.

Federal Regulations
34 CFR §303.23 Service Coordination
34 CFR. §303.344 (h) Content of an IFSP

3. *What is the responsibility of school district staff during early transition planning process?*

Recommended Practice

School district staff are highly encouraged to participate in the meetings between the Part C Agency Family Support Specialist and the family members preceding the Transition Conference. School districts are encouraged to routinely communicate with the Family Support Specialists about public school programs, activities and resources. School districts should coordinate with Family Support Specialist to allow parents to learn more about services available, and support parent and family involvement in the transition planning process. School district staff is encouraged to be responsive to requests by Family Support Specialist and families for information and opportunities to meet with school personnel, visit school programs and tour facilities.

TRANSITION CONFERENCE INVITATION TO THE SCHOOL DISTRICT

4. *What are the preparation activities that need to occur by Part C Agency and school district staff prior to the Transition Conference?*

Discussion

The Family Support Specialist, with parental permission, will complete and submit the Transition Conference Invitation Form (Appendix C) to the school district for a child who is currently eligible for Part C services under "Established Condition" or "Developmental Delay." The Transition Conference Invitation Form is an invitation to the school district to participate in transition planning, including determining if the child will be referred to the school district to determine if the child is eligible for preschool special education services. Each invited school district will participate in the transition planning conference arranged by the Part C Agency under Section 635(a)(1) of the IDEA (34 CFR 300.124).

The ideal time period for the Transition conference to occur is **not fewer than 90 days or, at the discretion of all parties, not more than nine months** before the child turns three years of age in accordance with IDEA Part C, Sec. 303.209(c)(1). The **Transition Conference Invitation Form** will be sent **at least 30 days** prior to the Transition Conference.

The Family Support Specialist will work with the family to determine a **date, time and location for the transition conference. However, the Family Support Specialist will still need to provide prior written notice of the Transition Conference to the family**. With parent consent, the Family Support Specialist will send a Transition Conference Invitation Form (Appendix C) as a **written invitation to the school district** and any other potential service providers (for preschool-aged children, such as Head Start, child care, etc.) with the details about the conference. The family and Family Support Specialist should make an effort to set up the Transition Conference to be as convenient as possible for all involved; thus, the original Transition Conference date, time and place can be rearranged as long as the Transition Conference occurs absolutely **no later** than 90 days before the child turns three years of age.*

The school district's responsibility after receiving the Transition Conference Invitation Form (Appendix C) is to send the family a copy of the procedural safeguards afforded the child and family as required in Part B of the IDEA, before the transition conference date. During the transition planning process, one responsibility of the FSS will be to inform the family that they will be receiving from the school district a copy of Part B's procedural safeguards prior to the meeting.

With the parent's written consent, the Family Support Specialist will provide the school district pertinent assessment/evaluation reports, child's diagnosis (if appropriate), IFSPs, and other information that may support Part B eligibility determination. Only information that originates with the Part C Agency shall be made available.

* The Part C of IDEA requires "In the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the school district at least 90 days, and at the discretion of the parties, up to nine months, before the child is eligible for the preschool services...". In order to ensure that the transition conference occurs before the 90 days prior to the child turning three years of age, Montana guidelines require the transition conference to occur four to nine months prior to the child's third birthday.

Federal Regulations
34 CFR 300.124

5. *What happens if a family declines to have the school district invited to the Transition Conference?*

Discussion
If a family whose child is potentially eligible for IDEA B (i.e., the child is eligible for Part C under the "established condition" or "developmental delay" categories) declines to have the Part C Agency invite the school district about the Transition Conference, the parent is then choosing not to continue with services through the Individuals with Disabilities Education Act (IDEA) after the child turns three years of age.

Therefore, if a parent declines the Transition Conference notification to Part B, the Family Support Specialist should provide the parent(s) with prior written notice that Part C services will end at the time of their child's third birthday. The Family Support Specialist will also provide the family a copy of the Part C procedural safeguards at this time.

If, after the child turns three years of age and the family changes their mind about exploring special education services, the family can directly contact the school district.

6. *What happens if a family who previously declined to have the school district invited to the Transition Conference has changed their mind?*

Discussion
The parent(s) can change his/her mind and provide consent for the invitation of a school district to a Transition Conference or referral for initial evaluation by the school district if the child is still under the age of three. In this case the Family Support Specialist may send the Transition Conference Invitation or referral for initial evaluation to the school district (same as for 7, below).

Federal Regulations
34 CFR §636(a)(3) and (d)(8)
34 CFR §637(a)(9)(C)
34 CFR §303.209
34 CFR §303.211

7. *What should occur with late referrals (i.e., children referred to the Part C Agency program within 90 days of their third birthday)?*

Discussion
If a child is referred to Part C **fewer than 45 days prior to the child's third birthday**, the Part C Agency may, but is not required to, conduct an initial evaluation, assessment and initial IFSP meeting for that child. The Part C Agency is not required to develop a transition plan or conduct school district notification for that child (see page 6 for the discussion on school district notification). However, the Part C Agency can assist the family in making a referral for initial evaluation for preschool special education services.

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**, the Part C 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 Part C Agency must develop a transition plan (with the appropriate transitions steps and services), and provide the school district and Montana's Office of Public Instruction with the child's information since they will not fall within the timelines of when the "Notification of Potentially Eligible Children Form" (Appendix A) would go out to schools. Generally, in these instances, the transition plan would be part of the initial IFSP. The Part C Agency will notify the school district of the Transition Conference and will inform the school district that the child was referred very late to Part C.

Federal Regulations

34 CFR §636(a)(3) and (d)(8)
34 CFR §637(a)(9)(C)
34 CFR §303.209
34 CFR §303.211

TRANSITION CONFERENCE

- Explain Parts B and C procedures and safeguards
- Discuss program options and next steps with family and school district, and, if appropriate, make modifications to the IFSP Transition Outcomes and objectives
- Consent for referral and evaluation is obtained, if appropriate
- Review if all current evaluations and/or assessments have been given to school district

8. Who convenes and attends the Transition Conference?

Discussion

The Part C Agency is legally responsible for convening the Transition Conference. It is the responsibility of the Family Support Specialist to invite (using Transition Conference Form – Appendix C) a school district representative to the Transition Conference with the approval of the family. It is the legal responsibility of the school district representative to respond to the Part C Agency provider's invitation and participate if it is determined that the child is potentially eligible for Part B services. Minimally, attendees to the Transition Conference should include the family, Family Support Specialist, school district representative and any other agency considered for future services. Examples of other agencies might include Head Start or Child Care programs.

Paragraph beginning "The Family Support Specialist and family..." Change: The Family Support Specialist and the family will schedule the Transition Conference **not fewer than 90 days or, at the discretion of all parties, not more than nine months** before the child turns three years of age. Family Support Specialist should communicate frequently with school district personnel to promote school district participation and attendance. Refer back to question 4 for further discussion of timelines.

If any party is unable to attend the Transition Conference, the meeting may be rescheduled, but it must absolutely occur 90 days before the child's third birthday. Part C is required by the IDEA to convene the Transition Conference 90 days before the child's third birthday and school districts are required to participate **[each invited school district will participate in the transition planning conference arranged by the Part C Agency under Section 635(a) (1) of the IDEA (34 CFR 300.209)].** Part C must document instances when the school district does not notify the Family Support Specialist within 14 days of the invitation to the Transition Conference that the school district cannot attend or reschedule within the transition timelines. If Part C fails to

schedule the Transition Conference 90 days prior to the child's third birthday, the school district must document this information in the Achievement in Montana (AIM) system.

Federal Regulations
34 CFR § 300.209

9. *Does the school district need to complete any forms prior to their participation in the Transition Conference?*

Recommended Practice
Yes. The school district must return the Montana's Part C Transition Conference Meeting Invite (Appendix C) form showing their intent to attend or not attend the meeting. The school district should review the Transition Conference Invitation Form and any other documents/information about the child that was provided by the Part C Agency before attending the meeting.

10. *What occurs during the Transition Conference?*

Discussion
At a minimum, as described in the federal statute, the purpose of the Transition Conference is to: *"discuss any such services that a child may receive"* in the future which includes school district special education services and/or other community services for preschool-aged children; to examine *"options for the period from the child's third birthday through the remainder of the school year"* for children who may be eligible for school district special education services; and *"to establish a transition plan, including, as appropriate, steps to exit from the program."* In most cases the current IFSP for the child will include a transition outcome and objectives that constitute the transition plan, but at the Transition Conference, with the parent's approval, additions or modification of the transition outcomes and objectives may take place. These modifications may include: (1) making parents aware of information about future placements, services and other matters related to the child's transition; (2) procedures to prepare the child (and family) for changes in service delivery, including steps to help the child (and family) adjust to and function in a new setting; (3) with parental written consent, the transmission of additional information about the child to the school district to ensure continuity of services, including evaluation and assessment information and copies of IFSPs. In addition, the parents can approve in writing of a referral to the school district to complete the initial evaluation for eligibility for preschool special education services; and (4) other steps that promote a smooth transition for the child and family.

The Transition Conference provides an opportunity for families to learn in more detail about their school district's programs and services and for the school district representative to learn about the child and the family. Representatives from the school district and other appropriate agencies and programs should provide information about their services and answer questions.

Ideally, the family should already know some of this information prior to the Transition Conference as transition planning occurs over time as a responsibility of the Family Support Specialist's role. Learning about program options and services in advance of the Transition Conference facilitates the development and implementation of transition steps and services outlined in the child's IFSP. As a result of prior planning and conversations, many parents will have signed consent for the Family Support Specialist to send other relevant child information to the school district.

Some families are ready to move forward with the school district referral for initial evaluation of eligibility for preschool special education services, while other families may need more time before making a decision. It is important to schedule Transition Conferences more than 90 days in advance of a child's third birthday as families often need more time to consider their options.

For families *interested* in preschool special education services, the school district representative must provide written prior notice (for all children who are going through a Transition Conference) regarding consent to evaluate. The contents of the prior notice (PWN) must include:

- A description of the actions proposed by the school district;
- An explanation of why the school proposes or refuses the action;
- A description of each evaluation, assessment, record, or report the school used as a basis for its decision;
- A statement regarding Part B Parent and Students Rights and a copy of the Part B Procedural Safeguards;
- Sources for parents to contact to obtain assistance in understanding their rights; and
- A description of other options considered, and why they were rejected; and a description of any other factors relevant to the school's decision.

For families who are both interested in preschool special education services *and* ready to proceed with the possible Part B Eligibility Determination Process (including the steps above):

- Complete a Part C to Part B Referral Form (Appendix D);
- Review Part B Evaluation Plan form (Notice of Intent to Conduct an Evaluation or Reevaluation and Permission for Evaluation or Reevaluation) (Appendix E);
- Obtain written consent for education evaluation (This starts the timeline of 60 days to complete the initial evaluation for Part B) (Appendix E);
- Review current evaluation and assessments and determine if additional assessments will be needed;
- Determine next steps (including visits to the possible future settings); and
- Part C Family Support Specialist addresses additions/changes to the transition plan outcome and objectives in the child's IFSP (if needed).

Federal Regulations

IDEA Statute—Part C section 637(a)(9) (A)(ii)
34CFR § 300.209
34CFR § 300.421
34CFR § 300.420

11. Can parental consent for Part B initial evaluation be obtained at the Transition Conference?

Discussion

Yes. The school district representative may secure parental consent for initial evaluation during the Transition Conference. Parents must fully understand what signing consent means and the resulting actions that will occur. Therefore, the school district representative is responsible for providing and describing Part B Procedural Safeguards to the parents. The initial evaluation must be completed by the school district within 60 days of the parental consent. It is the choice of the parent as to whether they sign the consent during the Transition Conference, as it is not a legal requirement of the Transition Conference. Parents may need more time to consider their options and should not be pressured to make a decision during the conference. Allowing time for decision-making is one reason why the conference should be held more than 90 days before a child's third birthday. Parents have a right to withhold consent if they decide to not proceed with a Part B initial evaluation and eligibility determination process.

Federal Regulations

34 CFR § 300.300 Parental Consent
34 CFR § 300.9 Consent

12. What happens if a family who has been referred to Part B declines to provide consent for an initial evaluation?

Discussion

Parents have a right to withhold consent if they decide to not proceed with a Part B initial evaluation and eligibility determination process.

If the parent denies consent in writing to proceeding with the Part B evaluation and eligibility determination process, access to special education services under the IDEA will not be available to the child upon turning three. Parents may reinitiate the evaluation and eligibility process at a later date if they desire.

Therefore, if a parent denies consent in writing to the Part B evaluation and eligibility determination, the Part C Agency will provide them with prior written notice that Part C services will end at the time of their child's third birthday. The Part C Agency will also provide the family with a copy of the Part C procedural safeguards at this time, as well as contact information for the school district in which they reside.

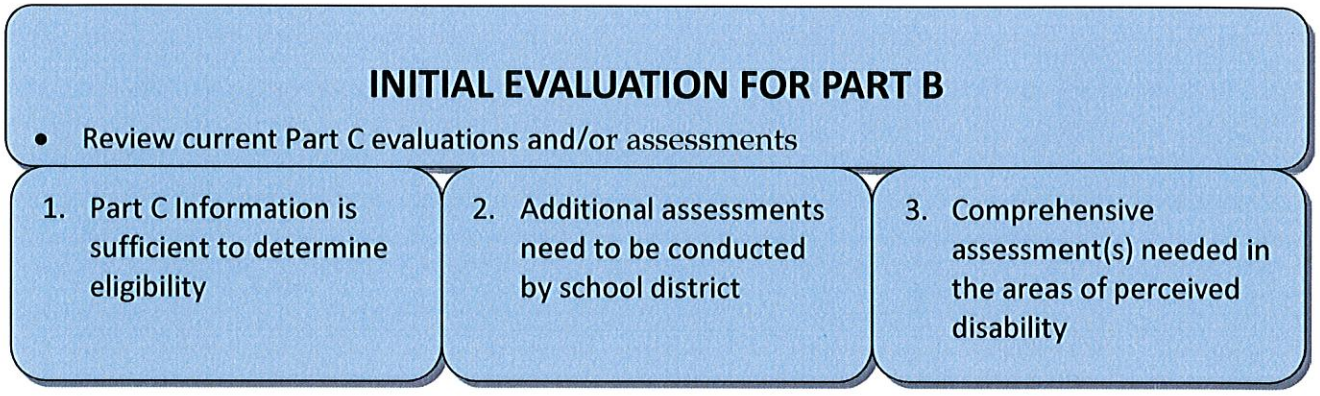
Federal Regulations
34 CFR § 300.300 Parental consent
34 CFR § 300.9 Consent

13. Can a child's eligibility be determined at the Transition Conference?

Discussion

No. The Transition Conference is not the time to determine eligibility for IDEA Part B services. The Transition Conference provides an opportunity for the family to meet a representative of the school district and learn more about the steps in the process of determining possible eligibility. An initial review of a child's records and assessments could occur during the conference, but not an initial evaluation for determination of Part B eligibility.

Federal Regulation
34 CFR§ 300.306 Determination of Eligibility



14. What is the school district's responsibility for conducting an initial evaluation?

Discussion

The school district is responsible for obtaining written informed parental consent and completing the assessments within 60 days. The purpose of the initial evaluation is to determine if the child is a child with a disability, and if the child requires special education and related services to benefit from the education program. The initial evaluation to determine eligibility must occur within the three months before a child turns three, and the initial evaluation must be completed by the school district within 60 days of the parental consent.

Prior to conducting evaluations to determine eligibility, the Evaluation Report team must review any existing data, including evaluations and information provided by parents and the Part C Agency, assessments and teacher observations.

As part of the Part B evaluation procedures, the team must utilize a variety of assessment tools and strategies to gather functional and developmental information about the child, including information from the parents, information related to enabling the child to be involved, and progress in age-appropriate activities. All tools and strategies must yield relevant information that directly assists in determining the educational needs of the child and be sufficiently comprehensive to determine if a child has a disability and the need for special education and related services.

Federal Regulations

34 CFR § 300.301 Initial Evaluations.
34 CFR § 300.304(b) Evaluation Procedures
34 CFR § 300.305 Additional Requirements for Evaluations and Reevaluations
34CFR § 300.502 Independent Educational Evaluation

15. Can school districts use assessments and evaluation information from the Part C Agency in determining a child's eligibility for Part B services?

Discussion

Yes.

The school district must review *existing* evaluation data as part of the initial evaluation.

The school district is required to draw information from a variety of sources such as parent input and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior. This may include existing IDEA Part C assessment data. In some instances the information from the Part C Agency may be sufficient in determining eligibility. If not, it is the responsibility of the school district to conduct any further evaluations in order to determine eligibility for Part B services. The school district must ensure that a full and individual initial evaluation has been conducted before determining the child's eligibility for special education. The initial assessments must be conducted within 60 days of parent consent.

Federal Regulations

34 CFR § 300.305 Additional Requirements for Evaluations and Reevaluations

ELIGIBLITY DETERMINATION MEETING

16. How is eligibility determined for Part B services?

Discussion

Eligibility is determined after the initial evaluation procedures are completed including the careful review of existing evaluation and assessment information, observations and input from the parents.

A team of qualified professionals, including the parents, determine whether the child meets the Montana Part B eligibility requirements. The student must qualify in one or more of the disability categories listed in question 18 and demonstrate the need for special education and related services.

The school district must, at no cost to the parent, provide a copy of the evaluation report and the documentation of the child's eligibility to the parent. With consent of the parent, documentation of the eligibility determination for Part B will also be sent to the referring Part C Agency.

Federal Regulation
34 CFR §300.306 Determination of Eligibility

CHILD TRANSITIONS TO SCHOOL DISTRICT

- IEP initiated and developed

17. If the student is determined eligible for Part B Services, is he/she required to receive them?

Discussion
No.

Federal Regulation
34CFR §300.9 Consent
34CFR §300.300(b) Parental Consent

18. Under what disability category(ies) can a child qualify for Part B?

Discussion
A child can qualify for Part B under the standard 13 reporting categories:

- Autism
- Cognitive Delay
- Deaf-Blindness
- Developmental Delay
- Deafness
- Emotional Disturbance
- Hearing Impairment
- Learning Disability
- Other Health Impairment
- Orthopedic Impairment
- Speech/Language Impairment
- Traumatic Brain Injury
- Visual Impairment

Federal Regulation
34 CFR §300.8 Child with a Disability

Administrative Rules
10.16.3007 through 10.16.3022

EVALUATION REPORT AND DOCUMENTATION OF ELIGIBILITY SENT TO PARENT AND PART C AGENCY PROVIDER

19. Should the school district provide the Part C Agency with a copy of the eligibility determination?

Part C Child Count Requirement

Yes. If the Part C Agency does not attend the Part B Eligibility Team Meeting they must be provided with a copy of the Eligibility Determination page of the Evaluation Team Report for the child's Part C record and data reporting purposes.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

- Review progress and performance
- Develop IEP

20. Does an IEP need to be in place by the third birthday when the family chooses the Part B program?

Discussion

Yes.

Federal Regulation

§ 300.124 Transition of children from the Part C program to preschool programs
§ 300.323 When IEPs must be in effect

ADDITIONAL QUESTIONS

21. Can a district refuse to accept a Part C Referral?

Discussion

No. Regardless of the time of year it is received, a district must accept and act upon a referral from a Part C Agency.

Federal Regulation

34CFR §300.124 Transition of children from the Part C program to preschool programs

22. What if the district doesn't offer preschool special education services?

Discussion

The IDEA requires all school districts to offer a full continuum of services. If a district does not have preschool special education services available at the time of a Part C to Part B referral, it must either develop preschool special education services or participate with a program that has services available.

Federal Regulation

34CFR §300.115 Continuum of alternative placements
34 CFR §300.116 Placements

23. Who determines if Extended School Year (ESY) preschool special education services are necessary for a student with disabilities?

Discussion

In accordance with 10.16.3324, ARM, the student's IEP team shall decide annually whether ESY preschool special education services are necessary for a student. If a student turns three years old during the summer, the student's IEP team shall decide whether the student needs ESY preschool special education services during that summer in order to benefit from a Free Appropriate Public Education (FAPE). If, at that initial IEP meeting, the IEP team determines that the preschool-age student does not need ESY preschool special education services, the IEP team shall identify the date of initiation of services as the first day of the school year.

24. How does the IEP team determine if extended school year services are necessary?

Discussion

Local educational agencies shall provide extended school year services in accordance with 34 CFR 300.106.

IEP teams shall use recoupment and regression as the criteria for determining eligibility for extended school year services. In the absence of the opportunity to collect data to determine regression, the IEP team may conclude that ESY services are necessary based on data that research has shown to predict regression and difficulty with recoupment. Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with 34 CFR 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

Federal Regulation

34CFR §300.106
34 CFR §300.320 through 300.324

Administrative Rule

10.16.3324

APPENDICES

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C. Part C Transition Conference Meeting Invitation Form

D. Referral from Part C to Part B Form

E. Part B Evaluation Plan Form (Notice of Intent to Conduct an Evaluation or Reevaluation and Permission for Evaluation or Reevaluation)

F. Eligibility Criteria for Part C and Part B

G. Summary of Transition Team Members and Roles

H. Transition Checklist – From Part C to Part B First Steps Booklet

I. Glossary of Terms

J. Helpful Hints for Families in Transition from Part C to Part B

Montana's Part C Notification of Potentially Eligible Children

Part C Agency:_____
School District:_____
Page _____ of _____

Child's Legal Name (first, middle initial, and last)	Birth Date	Physical Address	Mailing Address if different than physical.	Parent's Name(s)

This many families opted out of notification _____

Montana's Part C - Opting Out of Notification to the Local Education Agency (Public School) Form

Name of the Part C Agency: _____
Child's Legal Name (first, middle initial, last):_____
Date of Birth (month/day/year): _____

Opting Out of Notification to the Local Education Agency

Our program is required by federal law (the Individuals with Disabilities Education Act, "IDEA") to release limited contact information (your child's name and date of birth, your name and address) to notify your local school system of your child's potential eligibility for special education services at age three.

Following discussion with your Family Support Specialist (FSS) about transition options for when your child turns three years of age, as the parent, you may "opt out" of this notification and not have the limited contact information sent to the local public school system. By signing this document, you indicate your preference that we **not** send any information (your child's name and date of birth, your name and address) to your local public school system. If this "Opting Out of Notification to the Local Education Agency" form is not signed and received by our Part C agency within the next ten (10) days, your limited contact information will be sent to the appropriate local education agency.

Parent Signature: _____ Date: _____

FSS Signature: _____ Date: _____

Montana's Part C Transition Conference Meeting Invite

To: _____

(Name of designated Local Education Agency (LEA) contact person, Head start, Daycare, etc.)

From: Family Support Specialist: _____

Part C Agency's Name and Address:_____ **Phone:**_____
E-Mail:_____ **Date:**_____

RE: Child's Name:_____ **Date of Birth:**_____

The Part C Transition Conference must be scheduled **at least 90 days and up to nine months** prior to a child turning three. The Part C Transition Conference is an opportunity for a family to learn about the range of options in their community that may be available for their child. A family can share about their child's strengths and needs, as well as any concerns the family may have and community providers can share about their program and how they might meet the needs of the child. If the child may possibly be eligible for Part B (Special Education Preschool), a representative from the school district in which the child resides must be invited to the Transition Conference. The school districts **must** send the family a copy of the procedural safeguards afforded the child and family as required in Part B of the IDEA, before the transition conference date.

With the family's consent, you have been invited to participate in the Transition Conference.

The meeting will be held : Date:_____ **Time:**_____ **Place:**_____

Address:_____

Please check your response below and return to the Family Support Specialist listed above within 14 days of the meeting date indicated above.

_____ **I will attend.**

_____ **I will not be able to attend, other possible dates at least three months before the child turns three years of age that I can attend**
_____

_____ **I will not be able to attend, but I will send another representative:**

Name of person attending:_____ **Title/Role**_____

Phone: _____ **Email:**_____

Please bring any necessary forms and materials to this Transition Conference to assist you in:

- Providing information to the parent(s) about all available educational programs for preschool children, including those programs for children with and without disabilities.
- Providing information to the parents about the eligibility criteria for preschool special education services, including evaluation procedures and special education eligibility areas.
- Providing the parents with an explanation of the requirements of a Free Appropriate Public Education (FAPE).
- Providing the parents a copy of the procedural safeguards afforded the child and family as required in Part B of the IDEA.
- Explaining the purpose for Extended School Year (ESY) services and the documentation needed to support the IEP team in determining eligibility for extended school year services.
- Consent forms to conduct further evaluation to determine eligibility for preschool special education.
- Other information needed to facilitate a timely, seamless transition.

If you need further information, please contact the Family Support Specialist listed above.

*Parent means (1) a natural, adoptive or foster parent of a child; (2) a guardian; (3) a surrogate parent.

REFERRAL FROM PART C TO PART B

Child Information

Child's Name	Initials	Birth Date	Age	Gender	Today's Date

Parent/Guardian Name	Parent/Guardian Address	Home Phone:
		Work Phone:
Primary language of the child's home: English_____ Other:_____	School District/Cooperative	

IDEA PART C EARLY INTERVENTION (IF CHILD RECEIVES OR HAS RECEIVED PART C SERVICES)

Date of Transition Conference:_____
School Staff Attending:_____
Part C Agency:_____ Family Support Specialist:_____
Results: _____Results Attached ☐
_____
_____

Intervention Results See Attached ☐

Dates	Implemented By	Intervention	Results of Intervention

Specific Reasons for Referral for Evaluation

Why is the child being referred for a comprehensive educational evaluation?
_____
_____
_____

The child may have a disability which adversely affects the child's educational performance to the degree which requires special education and related services. The areas of concern that need further evaluation are:

☐ Academic ☐ Assistive Technology/Services ☐ Behavioral ☐ Communication
☐ Developmental ☐ Limited English Proficiency ☐ Physical ☐ Psychological
☐ Social/Emotional ☐ Other:_____

Signature of person making referral:_____ Date:_____

Date of District Receipt of Referral:_____

Revised July 2013

Montana
Office of Public Instruction
Denise Juneau, State Superintendent
opi.mt.gov

EVALUATION PLAN
NOTICE OF INTENT TO CONDUCT AN EVALUATION OR REEVALUATION
and
PERMISSION FOR EVALUATION OR REEVALUATION

TO: _____
(Parent / Adult Student)

_____ ___/___/___
(Name of Student) Date of Birth

Has been referred for comprehensive evaluation for the following reasons:

_____
_____
_____

The tests and other evaluation procedures to be used to assess your child are marked below:

☐ **ACADEMIC ACHIEVEMENT:** Individually administered diagnostic tests in early literacy, reading, language, math and written language to determine skills in the above areas.

☐ **ASSISTIVE TECHNOLOGY/SERVICES:** Needs for assistive devices and services in order to benefit from special education services.

☐ **BEHAVIORAL:** Assessment and/or observations to identify supports and strategies to address behavioral needs.

☒ **CLASSROOM-BASED ASSESSMENT*:** Involvement and progress in general education curriculum (i.e., reading, math, etc.).

*** Required**

☐ **COMMUNICATION:** Individual tests of speech and/or receptive and expressive language skills.

☐ **DEVELOPMENTAL:** Individually administered tests and/or structured observations measuring typical child development of preschool-age students or others as appropriate.

☒ **OBSERVATIONS***

☐ **PHYSICAL:** Visual and hearing acuity; gross and fine motor development; orientation/mobility; blindness/visual impairment (need for Braille instruction).

☐ **PSYCHOLOGICAL:** Individually administered intelligence tests and measures of adaptive behavior designed to help determine the student's ability to function in an academic setting.

☐ **SOCIAL/EMOTIONAL:** Checklists, tests and observations to determine social skills and emotional status of the student.

☐ **TRANSITION:** Assessments of training, education, employment, or independent living skills.

☐ **OTHER: (specify)** _____

If you have any questions about your rights, or any part of the Special Education process, please contact your school administrator or cooperative personnel. Please respond to this request for Permission for Evaluation as soon as possible.

I understand the reason(s) for the evaluation and the description of the tests and other evaluation procedures and have checked the appropriate box below. If this is the initial evaluation of my child I have received the pamphlet **PROCEDURAL SAFEGUARDS IN SPECIAL EDUCATION UNDER IDEA**.

☐ Permission is **given** to conduct the evaluation. _____ _____
Parent / Adult Student **Date**

☐ Permission is **denied**. _____ _____
Parent / Adult Student **Date**

_____	_____	_____	_____
School Contact	**Phone Number**	**Date Sent**	**Date Returned**

Revised July 2013

Eligibility for Early Intervention, Part C

Children from birth up to 36 months with developmental delays/disabilities are eligible for Part C services. These services end when the child reaches 36 months of age.

Montana defines Part C eligibility as:

Children from birth up to 36 months, inclusive, are eligible for early intervention and family support services under Part C of the Individuals with Disabilities Education Act (IDEA) if they:

1. Have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay (e.g., sensory impairments, inborn errors of metabolism, microcephaly, fetal alcohol syndrome, epilepsy, Down syndrome or other chromosomal abnormalities), even though the delay may not exist at the time of diagnosis.

OR

2. Are experiencing developmental delays (50% in one or 25% in two of the developmental areas), as measured by appropriate diagnostic instruments and procedures in one or more of the following areas:
    - Cognitive development;
    - Physical development, including vision and hearing;
    - Speech and language development;
    - Social and emotional development; and,
    - Self-help skills.

An informed clinical opinion must be used when determining eligibility for services under Part C in the absence of standardized measures, or if the standardized measures and procedures are not appropriate for a given age or developmental level.

Eligibility for Special Education and Related Services, Part B

A child is eligible for special education if he or she meets the criteria for one of the disabling conditions recognized by the Individuals with Disabilities Education Act (IDEA) and if the child requires special education and related services to benefit from the education program. These disabling conditions are:

- Developmental Delay
- Autism
- Cognitive Delay,
- Deaf-Blindness,
- Deafness,
- Emotional Disturbance,
- Hearing Impairment,
- Orthopedic Impairment,
- Other Health Impairment,
- Specific Learning Disability,
- Speech-Language Impairment,
- Traumatic Brain Injury, or
- Visual Impairment.

The evaluation report must identify a disability category. If the child is eligible for special education services, the IEP team will set a date to start special education services. This date may be on the child's third birthday or on the first day of the following school year. An eligible child whose third birthday falls during the summer vacation begins services in the fall unless the child needs Extended School Year (ESY) services.

Summary of Transition Team Members and Roles

Early Intervention/Family Support Specialist – Service Coordinator Role (FSS)

- The FSS will facilitate the meeting.
- Invite a representative from the school district to attend.
- Arrange for the meeting in a location and at a time agreeable to the family, preferably in one of the child's current environments.
- Provide prior notice of the meeting to the family.
- Send records to the school district if the family consents.
- Share all early intervention records released by the family.
- In collaboration with the IFSP Team, develop a transition plan with action steps.
- Help the family identify programs, settings and services as part of the IFSP transition plan.

School District's Role

- Inform the family of their rights in special education.
- Consider the family's concerns about the transition.
- Review existing evaluation and assessment results, including the current IFSP.
- Determine whether additional information will be needed.
- Plan how to obtain evaluation and assessment information in a timely manner.
- Obtain parental consent to evaluate if appropriate.
- Provide information on how the school district can work with the child and family in different settings.

Family's Role

- Share hopes and dreams for their child.
- Review parental rights information.
- Share questions and concerns.
- Participate in planning the location of future evaluations.
- Sign necessary consent forms for evaluation.
- Learn about placement options for their child.

Part C to Part B Transition Checklist

1. The transition meeting was held and the transition plan is part of the child's current IFSP.
2. The child has been referred to the local school district.
3. The following records and information were provided to the school district:
    - ☐ Birth certificate
    - ☐ Shot (immunization) record
    - ☐ Social Security number
    - ☐ Medicaid number (if child has one)
    - ☐ Emergency contacts
    - ☐ Child's records from early intervention agency, including IFSPs listing the child-focused services provided
    - ☐ Other preschool or childcare program records
    - ☐ Hospital, clinic, or other medical records, as needed
4. Testing and evaluations were completed.
5. The evaluation and eligibility meeting was held with school staff.

    If the child was not eligible for special education services from the local school district, other options have been discussed. If the child was eligible for special education services from the school, then:
6. Parents helped write the child's IEP and placement.
7. Transportation needs were identified and met.
8. Parents visited the local school district's special education program.
9. Parents met and talked with the child's new public school teacher(s).
10. The child met with his or her new teacher(s).

Glossary of Terms

Child Find: A component of IDEA that requires local school districts to actively locate children, birth to age 21, suspected to have disabilities and be eligible for special education, and who reside in their jurisdiction.

Developmentally Delayed (Early Intervention – Part C): Having a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, even though the delay may not exist at the time of diagnosis, or experiencing developmental delays as measured by appropriate diagnostic instruments in one or more of the following areas: cognitive development, physical development, including vision and hearing, communication development, social or emotional development, or adaptive development (early intervention).

Developmental Delay (Special Education – Part B): A child who is three, four, or five years of age who has a significant delay in development (defined in Appendix F) or who meets the criteria defining any of the disability categories described in Appendix F, and who, because of this severe delay, needs special education and related services (special education).

Developmental Disability (DD): A substantially limiting physical or mental impairment that affects basic life activities such as hearing, seeing, speaking, walking, caring for oneself, learning, or working.

Extended School Year (ESY): Certain students with disabilities do not receive a free appropriate public education (FAPE) during the 180-day school year. The IEP teams must consider whether regression and recoupment concerns for such students are the reasons for failure to receive a FAPE during the school year. If the time needed to recoup skills previously learned exceeds the time customarily needed, then special education and/or related services would be necessary for the student to receive a FAPE. The ESY services are provided during the time when school is not in session. Typically, this is during the summer break but could also be at other times such as after the school day or during other breaks.

Family Education Rights and Privacy Act (FERPA): A federal law that protects the privacy and transfer of students' education records.

Family Support Specialist: Professionals who provide family education and support services to children with disabilities and their families. They are employed by Montana Child and Family Service Contractor agencies.

Free Appropriate Public Education (FAPE): An individualized education program that is designed to meet the child's unique needs and from which the child receives educational benefit. The educational services must be at no cost to the family.

Head Start: A federal program started in 1965 aimed at providing a comprehensive preschool program for children, ages 3 to 5, from low-income families. Planned activities are designed to address individual needs and to help children attain their potential in growth and mental and physical development before

starting school. Ten percent of enrollment is required to be for children with disabilities.

Individuals with Disabilities Education Improvement Act (IDEA): The federal law that provides the legal authority for early intervention and special education services for children birth to age 21. **Part B outlines services for children ages 3 to 21. Part C outlines services for children birth to age 3.**

Individualized Education Program (IEP): A written document that describes the special education and related services that make up a free, appropriate public education for a child with disabilities; the program is designed to meet the individual special education and related services needs of an eligible child (special education).

IEP Team: The IEP team is made up of the child's parent, special education teacher, a general education teacher, and a representative of the school district. Other team members may include related service providers, professionals who evaluated the child and others with knowledge or special expertise regarding the child. The members of the team develop the initial IEP and meet subsequently to review progress and make changes in the written plan. Parents **must** be included as members of this team.

Individual Family Service Plan (IFSP): A written document that describes the early intervention services provided to the child and family; the program is designed to meet the needs of the child and the family, and is based on family identified priorities (early intervention).

IFSP Team: The IFSP Team is made up of parent or parents of the child; other family members, as requested by the parent, if feasible; an advocate or person outside the family, if the parent requests that the person participate; service coordinator; evaluator(s); service provider(s); school district representative at the initial eligibility determination and if the child is in need of prolonged assistance. The members of the team develop the initial IFSP and meet subsequently to review progress and make changes in the written plan. Parents **must** be included as members of this team.

Least Restrictive Environment (LRE): To the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Notification: The general notice sent to a school district/cooperative indicating the names, birth dates, addresses, and parent names of children who will be turning three within the next six months. This notification will be given twice a year. The first notification will be for children who will turn three years old in September through the following February, and the second notification will be for children who will turn three years old in February through the following September.

Parent: Parent means: (1) a natural, adoptive or foster parent of a child; (2) a guardian; (3) a surrogate parent; or (4) an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent or other relative with whom the child lives. It does not include employees of a state agency responsible for the welfare of the child.

Part B: The part of the Individuals with Disabilities Education Act (IDEA) that outlines services for children ages 3-21 (special education).

Part C: The part of the Individuals with Disabilities Education Act (IDEA) that outlines services for children birth to age 36 months (early intervention).

Part C Lead Agency: The Montana Department of Public Health and Human Services, Developmental Disabilities Program, is the agency responsible for providing early intervention services to infants and toddlers (0-36 months) with developmental delays.

Potentially Eligible: Children who are potentially eligible for Part B are those children who are eligible under Part C.

Preschool Special Education: An educational program that is designed to meet the unique developmental needs of an individual child with a disability who is three, four, or five years of age. It is a child-focused educational effort. At the state level it is referred to as Section 619 of the IDEA.

Procedural Safeguards: Parents of children who receive special education have certain rights that are guaranteed by federal law, the Individuals with Disabilities Education Act (IDEA). These rights include the right to participate in meetings dealing with the identification, evaluation, and educational placement of their child and the provision of a free appropriate public education to their child. One of their rights is to be informed of all the rights available to them in writing, in their native language (unless it is clearly not feasible to do so), and at a level understandable to the general public. They are entitled to a copy of these procedural safeguards at least one (1) time per year, and:

1. upon initial referral or parental request for evaluation;
2. upon the initial filing of a complaint; and
3. upon request by a parent.

Referral: A referral begins the process through which a Child Study Team conducts a comprehensive educational evaluation. Each public school will have an established referral method for collecting information to determine whether comprehensive educational evaluation is necessary and the types of evaluations needed. Each public school will have a referral or multiple forms to collect this required information.

Special Education: Specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings and instruction in physical education. The term includes speech-language pathology services and may include other related services, travel training, and vocational education, if they meet the definition of special education. These services may be provided in a variety of educational settings, but are required by IDEA to be delivered in the least restrictive environment.

Special Education Cooperative: 20-7-451. Authorization to create full service education cooperatives. (1) A school district may contract with one or more other school districts to establish a cooperative to perform any or all education administrative services, activities, and undertakings that the school district entering into the contract is authorized by law to perform. The cooperative contract must

be authorized by the boards of trustees of the districts entering into the contract.

(2) A cooperative contract may allow money allocated to a cooperative to be expended for:

(a) recruitment of professionals or employees for the cooperative; and

(b) facility rental and supportive services, including, but not limited to, janitorial and communication services.

Currently, there are 21 special education cooperatives providing special education and related services to their membership.

Special Education Consortium: Some school districts elect to not participate in the special education cooperative in their region, but still do not have the resources to provide a full continuum of special education services on their own. These districts often work together in a special education consortium to pool resources and share staff among the member districts to ensure the full continuum of services is available to students in each district. One of the member districts will serve as the fiscal agent for the consortium and will provide oversight of the special education program for the member districts.

Special Education Director: The person in charge of the special education and related services program for their respective district.

Special Education Cooperative Director: The person in charge of the special education and related services programs for all member districts in their respective cooperative.

State Education Agency (SEA): The Montana Office of Public Instruction or other agency responsible for the state supervision of public elementary and secondary schools.

Transition: The movement from one service, location, or program to another. Young children with disabilities may transition at age three from early intervention to preschool special education services. Children may transition at age five from early childhood special education services to public school or a kindergarten program.

Transition Team Meeting: A transition from early intervention to the public school's special education program for preschool-age children with disabilities. This transition process should also assist families to pursue other community-based programs not supported by the IDEA. The parent, ultimately, consents to an outcome that either includes the public school's special education program supported by the IDEA or one that uses other resources.

Helpful Hints for Families in Transition from Part C to Part B

1. **Start early**
   The infant and toddler years go by quickly. Begin to plan early for your child's next step at age three.
2. **Be part of the transition planning team**
   Play an active role in the decisions made about your child's transition.
3. **Know and understand your child's educational rights**
   When you sign the form to have your child evaluated by the school district, your school district will give you a copy of "Procedural Safeguards in Special Education." Read the booklet. If you do not understand these rights, ask your special education teacher or a consultant from PLUK (1-800-222-7585) for help.
4. **Know and understand the responsibilities of the school district**
   Special education is very different from the early intervention program. It is important for you to understand the differences. The district's special education personnel will help you to understand what the district is responsible for and what it is not.
5. **Think about your child's strengths and abilities**
   An important role for you is to talk about your child's strengths. Sharing the things your child likes and dislikes with the team can help the school staff to understand and serve your child better.
6. **Remember that you are also going through a transition**
   Part C is very nurturing for families, as well as for children. Special education is focused on a child's educational needs and not on family needs. You will be saying goodbye to professionals who have been significant in your life and meeting a new group of professionals. Give yourself time to adjust to the change.