



UNITED STATES DEPARTMENT OF EDUCATION

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# **RETURN TO SCHOOL ROADMAP: PROVISION OF EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES AND THEIR FAMILIES UNDER PART C OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA)**

**OCTOBER 29, 2021**

The U.S. Department of Education (Department), Office of Special Education and Rehabilitative Services (OSERS), has received requests from a diverse group of stakeholders asking that the Department issue new guidance interpreting requirements of the [Individuals with Disabilities Education Act \(IDEA\)](#) in light of the many challenges of the COVID-19 pandemic and as more schools and programs are returning to in-person services. Topics include meeting timelines, ensuring implementation of initial evaluation and reevaluation procedures, determining eligibility for early intervention, special education and related services, and providing the full array of early intervention services and special education and related services that children with disabilities need in order to receive a free appropriate public education (FAPE).<sup>1</sup> Similarly, stakeholders have inquired about the implications of delayed evaluations and early intervention services to infants and toddlers with disabilities and their families served under IDEA Part C.<sup>2</sup> The purpose of the Return to School Roadmap IDEA guidance documents,<sup>3</sup> which focus on school and program reopening efforts and in-person service delivery, is to support the full implementation of IDEA requirements. The documents also serve to clarify that, regardless of the COVID-19 pandemic, or the mode of intervention or instruction, children with disabilities

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

<sup>2</sup> States reported to OSEP in their Federal Fiscal Year (FFY) 2019 State Performance Plans/Annual Performance Reports (SPP/APR) for the period July 1, 2019, through June 30, 2020, IDEA Section 618 data and through other sources that the number of children referred to Part C of the IDEA decreased.

<sup>3</sup> Other than statutory and regulatory requirements included in this Q&A document, the contents of this guidance do not have the force and effect of law and are not meant to bind the public. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The questions and answers in this document are not intended to be a replacement for careful study of IDEA and its implementing regulations. The IDEA, its implementing regulations, and other important documents related to IDEA and the regulations are found at: <https://sites.ed.gov/idea/>.

are entitled to FAPE, and infants and toddlers with disabilities and their families to appropriate IDEA Part C services.

As the Nation addresses the impact of the COVID-19 pandemic and State lead agencies (State LAs) and local early intervention service (EIS) providers are faced with making decisions about service delivery, the Department has received questions related to the provision of early intervention services. The questions in this document are intended to provide guidance and to identify the relevant regulatory requirements and options for flexibility for the State LA and EIS providers when faced with unprecedented programmatic circumstances. Furthermore, the Department recognizes that the generally home-based nature of IDEA Part C services presents a complicated set of considerations for State LAs and EIS providers in providing IDEA Part C services during the COVID-19 pandemic.

Part C of the IDEA provides funds to a State LA to make early intervention services available to all eligible infants and toddlers with disabilities and their families living within the State. Early intervention services are provided in conformity with the child's individualized family service plan (IFSP) developed by the child's IFSP Team, which includes the parent consistent with the requirements in 34 C.F.R. §§ 303.342 through 303.346. This document supplements the [guidance](#) released by the Department in October, 2020, regarding the implementation of IDEA Part C services during the COVID-19 pandemic.

The Office of Special Education Programs' (OSEP's) analysis of States' IDEA Federal fiscal year 2018 Section 618 Data,<sup>4</sup> reported prior to the COVID-19 pandemic, highlighted that certain populations, including American Indian, Alaska Native, and Black or African American infants and toddlers, were less likely to be screened, referred for services, and served under Part C of the IDEA than all racial and ethnic groups combined.

The Department recommends that States address how the COVID-19 pandemic has increased the disparity in accessing early intervention services and create systems to identify and address these inequities. With funding from the American Rescue Plan for IDEA Part C, now is the time for States to implement infrastructure changes and enhance implementation capacity to support EIS providers in implementing evidence-based practices to address the disparities in the State's early intervention system from screening, eligibility, and service delivery all the way through transition. These activities could include improving data systems so they can be used to help identify and measure equity challenges and ensure that families with limited English proficiency, families from low-income backgrounds, and families of color have access to high-quality early intervention services through targeted outreach, resources, and supports. Building a strong equitable system also requires a diverse workforce with the capacity to effectively support families with a variety of backgrounds.

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<sup>4</sup> See the [2020 Annual Report to Congress on the Individuals with Disabilities Education Act](#).

IDEA acknowledges the importance of parents and other family members in supporting a child's development. To be able to make sound decisions about their child's involvement in early intervention, and their own involvement, parents should be fully informed about what will take place and where, what is being proposed, and much more.<sup>5</sup> Parents who would like additional support in understanding IDEA's requirements may contact their local regional parent training and information centers (PTIs) for direct assistance and referrals to other organizations and to gain skills to effectively participate in the education and development of their children. There are over 100 PTIs in the United States and Territories that provide training, resources, and support on a wide variety of topics. Parents can locate the appropriate PTI for their area at [Find Your Parent Center](#).<sup>6</sup>

This document focuses on the development and implementation of Individualized Family Service Plans (IFSP). An IFSP is the written plan for providing early intervention services to an infant or toddler with a disability and the infant's or toddler's family. The IFSP must be developed by the child's IFSP Team, which includes the parent, in accordance with the procedures outlined in 34 C.F.R. §§ 303.342, 303.343, and 303.345 and include the content required in 34 C.F.R. § 303.344.

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<sup>5</sup> See Building the Legacy for Our Youngest Children with Disabilities: [Module 10: Introduction to Procedural Safeguards](#) (Mar. 2015).

<sup>6</sup> This document contains examples of resources that are provided for the user's convenience. The inclusion of these resources is not intended to reflect their importance, nor is it intended to endorse any views expressed, or products or services offered, by these entities. These resources may include materials that contain the views and recommendations of various subject-matter experts as well as hypertext links, contact addresses and websites to information created and maintained by other public and private organizations. The opinions expressed in any of these materials do not necessarily reflect the positions or policies of the Department. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of any outside information included in the materials that may be provided by these resources.

## FREQUENTLY ASKED QUESTIONS

**Question 1: What are the State LA or EIS providers' responsibilities for ensuring that IFSP Teams address the ongoing impact of the COVID-19 pandemic on the child and family when developing the initial IFSP?**

**Answer:** Upon referral, the State LA or EIS provider must, within 45 days of referral, conduct: (1) any screening, if applicable;<sup>7</sup> (2) the initial evaluation to determine the child's eligibility under Part C of IDEA; (3) the initial child and family assessment; and (4) the initial IFSP meeting to develop the IFSP with the IFSP Team, which includes the parent. The evaluation of the child must identify the levels of functioning in all five developmental areas (physical, cognitive, communication, adaptive, and social or emotional) under 34 C.F.R. § 303.321. Furthermore, under 34 C.F.R. § 303.321(a)(2) and (c), EIS providers must assess the child's unique strengths and needs, as well as conduct a family-directed assessment to identify the family's resources, priorities, and concerns and the supports and services necessary to help the family meet the needs of their infant or toddler with a disability. Additionally, under 34 C.F.R. § 303.321(a)(2) and (c), EIS providers must assess the child's unique strengths and needs, as well as conduct a family-directed assessment to identify the family's resources, priorities and concerns and the supports and services necessary to help the family meet the developmental needs of their infant or toddler with a disability. Finally, under 34 C.F.R. § 303.344(a), when developing the IFSP, the IFSP Team must include a statement of the child's level of functioning in all five developmental areas, based on the information from the child's evaluation and assessments conducted under 34 C.F.R. §303.321.

The challenges of the pandemic have impacted the physical, social, and emotional health of families across the nation. Some families have faced an increase in joblessness, homelessness, food insecurity, and health challenges related to the COVID-19 pandemic. A child's development and the family's capacity to support the needs of an infant or toddler with a disability can be adversely impacted by these types of traumatic stress. IFSP Teams should consider the full impacts of the pandemic on each child and family and include social-emotional and behavioral supports in the development and implementation of the initial IFSP. It is important that all early intervention services, including social-emotional,

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<sup>7</sup> The State LA may adopt screening procedures, consistent with the requirements of 34 C.F.R. § 303.320, to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of having a disability. Screening (if a State has adopted such procedures) requires parental notice and consent and must be performed within the 45-day timeline. At a parent's request and with parental consent, the EIS provider must conduct an initial evaluation of the infant or toddler even if the results of the screening do not identify the child as suspected of having a disability.

behavioral, and mental health supports, are culturally relevant, meaningful to the child and family, provided by qualified personnel, based on peer-reviewed research (to the extent practicable), and are necessary to meet the unique needs of the child and the family to achieve the desired results or outcomes under 34 C.F.R. § 303.344(d).

**Question 2: What are the State LAs and EIS providers' responsibilities to ensure that IFSP Teams address the ongoing impact of the COVID-19 pandemic on the child and family after the initial IFSP has been developed?**

**Answer:** Under 34 C.F.R. § 303.342(b), a periodic review of the IFSP must be conducted minimally at six months or more frequently as conditions warrant. The COVID-19 pandemic's impact on the child and family may warrant a periodic review of the IFSP prior to the six-month or annual review dates.

As part of periodic review of the IFSP, EIS providers must conduct ongoing assessment under 34 C.F.R. § 303.321(c) of the child's unique strengths and needs. The periodic review must also include a family-directed assessment to identify the family's resources, priorities, and concerns and the supports and services necessary to help the family meet the developmental needs of their infant or toddler with a disability. The qualified personnel conducting initial assessments should take into consideration the specific impact of the COVID-19 pandemic on both the needs of the child and the resources and capacity of the child's family. The IFSP Team, which includes the parent, must identify on the IFSP, under 34 C.F.R. § 303.344(d), any changes needed in the services, including frequency, delivery, method, or setting, to address the child's needs and outcomes. The State LA or EIS provider must ensure that services identified on the IFSP are provided to the child and family.

**Question 3: What are the State LAs and EIS providers' responsibilities to infants and toddlers with disabilities and their families who did not receive some or all of the early intervention services in their IFSPs due to circumstances related to the COVID-19 pandemic?**

**Answer:** The State LA or EIS provider must review its data and other information, such as information provided by a child's family, to determine whether and which eligible children did not receive services identified on their IFSPs, and take appropriate actions based on the results of the review. If IFSP services have not been provided in conformity with the IFSP, the State LA or EIS provider may need to conduct a periodic review of the IFSP in order to determine the current needs of the child and family. 34 C.F.R. § 303.342(b). As part of that periodic review by the IFSP Team, under 34 C.F.R. § 303.344(c), the IFSP must include a statement of the

child's progress toward achieving the results or outcomes identified in the IFSP and whether modifications to the IFSP are necessary.

Additionally, the IFSP Team may determine whether and to what extent compensatory services may be needed to address service disruptions due to the COVID-19 pandemic.<sup>8</sup> The IFSP Team may determine that compensatory services are necessary to mitigate the impact of disruptions and delays in providing appropriate services to the child. IFSP Teams must ensure decisions about compensatory services are individualized based on updated assessment information for the child and family under 34 C.F.R. §§ 303.340 through 303.344.

The State LA must also report data on any noncompliance under 34 C.F.R. § 303.342(a) and (e) under Indicator 1 (Timely Receipt of Services) in their SPP/APR and correct each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program and provider, consistent with [OSEP Memorandum 09-02](#) (OSEP Memo).<sup>9</sup>

**Question 4: What are the State LAs and EIS providers' responsibilities for infants and toddlers with disabilities and their families who, due to circumstances related to the COVID-19 pandemic, received services under an interim IFSP<sup>10</sup>?**

**Answer:** Under certain circumstances, early intervention services for an eligible child and the child's family may begin before the evaluation and assessments are completed, especially when those services have been determined to be needed immediately by the child and the child's family. However, the required evaluations and assessments must still be completed within the 45-day timeline in 34 C.F.R. § 303.310.

State LAs and EIS providers that utilized interim IFSPs<sup>11</sup> due to circumstances related to the COVID-19 pandemic and did not complete the full evaluation and

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<sup>8</sup> Under IDEA, courts have awarded compensatory services as an equitable remedy to address the needs of the infant or toddler with a disability and the family. Likewise, the State complaint procedures provide for compensatory services as an available remedy when there is a finding of a failure to provide appropriate services under IDEA in order to address the needs of the infant or toddler with a disability and his or her family. 34 C.F.R. 303.432(b)(1). It is the Department's position that, generally, many of the same types of individualized and child-centered deliberations that are appropriate for an IFSP Team meeting discussing the infant's or toddler's and family's IFSP, would be appropriate when considering the need for, and extent of, compensatory services.

<sup>9</sup> [OSEP Memo 09-02](#) provides guidance regarding the steps States must take under Sections 616 and 642 of the IDEA to report on the correction of noncompliance in the APR.

<sup>10</sup> An interim IFSP may be put into place with parental consent under 34 C.F.R. § 303.345 to provide IDEA Part C services before the evaluation or assessment is completed, and in addition must include the name of the responsible service coordinator, consistent with 34 C.F.R. § 303.344(g). The service coordinator will implement the interim IFSP and coordinate with any other agencies or people as appropriate.

<sup>11</sup> The requirements for an interim IFSP are in 34 C.F.R. §§ 303.310(c) and 303.345.

develop an initial IFSP within timelines required under 34 C.F.R. § 303.310, must still complete the evaluations, although late, convene an IFSP Team meeting to review the results, and revise the IFSP as needed. OSEP strongly encourages State LAs and EIS providers to prioritize those infants and toddlers who have been served through an interim IFSP for the longest period of time.

Interim IFSPs that exceed 45 days would constitute noncompliance unless there are documented exceptional family circumstances. The LA or EIS provider must also report the data on any noncompliance with 34 C.F.R. § 303.310 under Indicator 7 (45-day Timeline) in their SPP/APR and correct each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program and provider, consistent with [OSEP Memo 09-02](#).

**Question 5: What should the IFSP Team consider if a parent requests that early intervention services are provided virtually<sup>12</sup> as a method of delivery?**

**Answer:** The child’s IFSP Team (including the parent) must determine whether delivering the service virtually is an appropriate methodology for each service identified on the IFSP. Prior to the COVID-19 pandemic some States permitted IFSP services to be delivered virtually. During various stages of the pandemic, States have allowed infants and toddlers with disabilities and their families to receive IFSP services virtually. Some parents may wish to continue to receive some or all IFSP services virtually. The State LA and its EIS providers may be able to provide IFSP services virtually depending on the State’s policies and procedures, whether the services can be effectively provided on a virtual basis, and the individualized determination made by the child’s IFSP Team. Early intervention services must be tailored to meet the unique needs of the individual child and family (34 C.F.R. § 303.344(d)).

**Question 6: What options are available to parents, State LAs, and EIS providers to resolve disputes under IDEA Part C?**

**Answer:** OSEP encourages parents, State LAs, and EIS providers to work collaboratively, in the best interest of infants and toddlers with disabilities, to resolve disagreements that may occur when providing positive early intervention experiences. However, when there are disputes over Part C requirements, parents

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<sup>12</sup> Virtual service delivery, also referred to as: teleintervention, remote early intervention, remote learning, telehealth, telemedicine, telepractice, teletherapy, virtual home vision and virtual learning. This method of delivery primarily engages audio or video technology to connect EIS providers with parents and/or caregivers in ways that support their child’s development throughout their daily activities and routines. (<https://ectacenter.org/topics/disaster/tele-intervention.asp>).

are entitled to exercise their rights to State dispute resolution options under Part C of IDEA.

Under 34 C.F.R. § 303.421(a), parents must receive prior written notice a reasonable time before the State LA or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of their infant or toddler, or the provision of early intervention services to the infant or toddler with a disability and that infant's or toddler's family. Under 34 C.F.R. §303.421(b)(3), this notice must include information about all dispute resolution options. These include the right to: (1) file a State complaint regarding an alleged violation of any requirement of Part C of IDEA; (2) request mediation to resolve any matter under Part C; and (3) file a due process complaint regarding the identification, evaluation, or placement of their infant or toddler or the provision of early intervention services to their child and family.<sup>13</sup>

**Question 7: What are the State LA or EIS providers' responsibilities if an infant or toddler with a disability did not receive timely transition services due to circumstances related to the COVID-19 pandemic?**

**Answer:** Under 34 C.F.R § 303.209(a)(1)(ii) States are required to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families who are exiting the Part C early intervention program. If the LA determines that a toddler with a disability is not potentially eligible for Part B preschool services, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss service options that the toddler may receive (34 C.F.R. § 303.209(c)(2)). The transition plan in the IFSP includes, consistent with 34 C.F.R. §303.344(h), as appropriate, steps for the toddler with a disability and his or her family to exit from the Part C program and any transition services that the IFSP Team identifies as needed by that toddler and family. A transition conference or meeting to develop the transition plan must meet the IFSP meeting requirements in 34 C.F.R. §§ 303.342(d) and (e) and 303.343(a).

The State LA or EIS provider must review its data and other information (such as information provided by a child's family) to determine whether and which eligible children did not receive transition services and take appropriate actions,

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<sup>13</sup> The Center for Appropriate Dispute Resolution in Special Education (CADRE), an OSEP-funded technical assistance center, has developed a series of guides and companion videos to assist parents in understanding IDEA's dispute resolution procedures. These materials are available on CADRE's [website](#).



even if such children are now three years old or older. Additionally, if an eligible child did not receive transition services, the State LA must report data on any noncompliance with 34 C.F.R. § 303.209 under Indicator 8 (Early Childhood Transition) in its SPP/APR and correct each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program and provider, consistent with [OSEP Memo 09-02](#).

Under 34 C.F.R. § 303.342(b), the State LA or EIS provider may need to conduct a periodic review of the IFSP to determine if transition services were not provided. As part of that periodic review, under 34 C.F.R. § 303.344, the IFSP Team may also consider, on an individualized basis, whether and to what extent compensatory services may be needed to address service delays and disruptions due to the COVID-19 pandemic. IFSP Teams must ensure decisions about compensatory services are based on any transition needs identified and services not provided to the child and family.

**Question 8: What systemic actions should the State LA or EIS provider take to address transition activities that were not completed within the required timeline or that were delayed due to circumstances related to the COVID-19 pandemic?**

**Answer:** At a systemic level, the Department expects that State LAs and State educational agencies ensure that EIS providers and local educational agencies meet all applicable transition requirements and timelines by utilizing their data systems and reviewing their child find policies and procedures to complete required transition activities that were not completed due to the COVID-19 pandemic. This includes reengaging families with whom they may have lost contact and completing timely transition services for all infants, toddlers, and children determined to be eligible for early intervention and special education. States must collect and report data on these referrals under Part C Indicator 8 (Early Childhood Transition) and Part B Indicator 12 (Effective Transition) in their SPP/APR.

EIS providers should identify a system to prioritize and resolve any overdue transition services while simultaneously adhering to current timelines for children exiting Part C services. States can use IDEA Part C funds (both the [regular IDEA Part C funds](#) and the [supplemental Part C funds appropriated under the American Rescue Plan Act](#)) and funds provided to States through the [Elementary and Secondary School Emergency Relief and Governor's Emergency Education Relief funds](#) to complete overdue transition activities. It is critical that toddlers and their families exiting the Part C program experience a smooth and effective transition to the child's next program or other appropriate services, including

services that may be identified for a child who is no longer eligible to receive IDEA Part C or Part B services.

In considering how to prioritize services, EIS providers may consider: conducting activities to address the transition needs of children who are the oldest (e.g., turned three sooner than others with overdue transition services); analyzing and triaging the reasons for overdue transition services; and identifying mitigation strategies, including utilizing fiscal resources to support timely transition.

As the impact of the COVID-19 pandemic continues, States might consider expanding IDEA Part C services to include at-risk populations. States might also consider expanding IDEA Part C services to include infants or toddlers who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the infant or toddler. Additionally, States might consider infrastructure improvements within its Part C system, as well as specialized professional development for EIS providers to address needs related to Early childhood mental health (ECMH) diagnosis and treatment for all children and families, especially underserved populations.

**Question 9:** What resources are available to support the safe return to in-person services to reduce the spread of COVID-19?

**Answer:** The [Centers for Disease Control and Prevention](#) (CDC) provides COVID-19 guidance for Early Care and Education (ECE) programs, including child care centers, home-based programs and family child care, Head Start, and other pre-kindergarten programs. CDC's guidance includes strategies that ECE programs can use to reduce the spread of COVID-19 and maintain safe operations.

Key takeaways include:

- Vaccination is currently the leading public health prevention strategy to end the COVID-19 pandemic. Promoting vaccination among eligible individuals can help Early Care and Education (ECE) programs protect staff and children in their care, as well as their families.
- Most ECE programs serve children under the age of 12 who are not yet eligible for vaccination at this time. Therefore, this guidance emphasizes implementing layered COVID-19 prevention strategies (e.g., using multiple prevention strategies together) to protect children and adults who are not fully vaccinated.
- COVID-19 prevention strategies remain critical to protect people, including children and staff, who are not fully vaccinated, especially in areas of moderate-to-high community transmission levels.

- Masks should be worn indoors by all individuals (ages 2 and older) who are not fully vaccinated. ECE settings may implement universal mask use in some situations, such as if they have increasing, substantial, or high COVID-19 transmission in their ECE program or community, and while they serve a population not yet eligible for vaccination.