

## COVID-19 and Special Education

### FAQ Recommendations

#### Early Childhood Special Education (ECSE): Early Intervention Transition

**Question:** Are districts still required to have children transitioning from EI in service by their 3<sup>rd</sup> birthday and to report results to RIDE?

**Answer:** Yes, the federal requirement that children transitioning from Part C (Early Intervention) to Part B have an IEP implemented by their third birthday has not been waived. Districts should make a good faith effort to comply with the requirements during the 6-month transition period and, if eligible, to develop an IEP, which is implemented by each child's third birthday. All districts will be required to enter EI transition information into the annual preschool performance report.

**Question:** Given Secretary DeVos' recent report to Congress, can children remain in Early Intervention beyond their 3<sup>rd</sup> birthday and transition to the LEA when schools reopen?

**Answer:** No, Early Intervention is not allowed to provide services to children beyond their third birthday. As required in the CARES Act, Secretary DeVos recently released her report to Congress outlining requested waiver authority including, the authority to extend the IDEA Part B transition evaluation timelines. This waiver authority would need to include authorization for Part C services to continue with students beyond their third birthday and Part B funds to be able to be used for children not yet eligible for Part B services. With this flexibility, the parent and the SEA, or other lead agency, may agree to continue providing Early Intervention services until a Part B evaluation can be completed and eligibility determined. The proposed flexibility would end when face-to-face meetings and evaluations resume.

The request for authority to make these changes now goes to the Congressional Committees for their consideration. Currently, the timeline for any passage under statute or resolution is unknown. If it does pass, States will then need to hear from USDOE/OSEP on how to go about providing this flexibility, due to the financial and legal questions that have not yet been answered.

At this time, the federal requirements ensuring that children transitioning from Part C to Part B have an Individualized Education Program (IEP) implemented by each child's third birthday have not been waived. Early Intervention and the LEAs are expected to do their due diligence with each child and make every attempt to meet federal and state obligations and timelines. Early Intervention programs will hold transition meetings, and LEAs will maintain the usual ET & IEP meetings, making every effort to evaluate children, determine eligibility, and provide services as indicated.

**Question:** How should districts evaluate children transitioning from Early Intervention?

**Answer:** During this COVID-19 national emergency, teams should discuss the options for evaluation with each family. There are a variety of possibilities for assessment and review of the available body of evidence. Districts might consider a combination of the following:

- Review of Early Intervention (EI) Assessment Information
  - Formal evaluations including norm-referenced or criterion-referenced assessments;
  - Current progress monitoring data;
  - Functional skills and behaviors available through the Child Outcomes Summary (COS) process
  - Other developmental information, including videos of the child, if available.
- Review of Assessment Information Provided by the Family
- Virtual Evaluation/Assessment
  - Interviews with caregivers;
  - Virtual observation of a play session or other family routine;
  - Guiding parents in simple activities that can then be reviewed together;
  - Direct assessments that can be conducted in a virtual or interview format.

\* Please see the question below relative to specific ECSE evaluation/assessment tools that can be completed virtually through observation or interview

When determining types and methods of conducting evaluations, it is important to consider the effectiveness of gathering information in a virtual format, factoring in family preference, as well as the advantages & disadvantages of moving forward virtually. At times IEP teams may choose to complete some of the assessments virtually, to have sufficient information for eligibility purposes but, to hold on other assessments until they can be administered in person. This approach ensures that children do not go without any type of service (EI or special education) during this time of unprecedented national emergency, as federal statute does not allow EI to provide services beyond a child's third birthday.

**Question:** Although many children transitioning from EI will have sufficient information to determine eligibility, *what should districts consider, and how should they capture data* when families and LEAs agree to postpone evaluations until schools are open?

**Answer:** At times, there may be insufficient information to determine eligibility, even after districts have done their due diligence in reviewing existing EI and parent information and considering appropriate virtual assessment and observation. Other times families may choose not to participate in a virtual assessment, which will result in the child's evaluation being postponed until the evaluation can be conducted in person. In these circumstances and during this unprecedented national emergency, districts are encouraged to work with parents to reach mutually agreeable extensions of time and to document such agreements. As a general principle, however, the option to delay the evaluation until school is in session should be avoided whenever possible. As federal statute does not allow EI to provide services beyond a child's third birthday, if the child has not yet been evaluated for special education, the child will go without service after turning three.

Currently, districts capture EI transition data on the bottom of the EC Environment Form (section 38) at the initial IEP meeting and enter corresponding information into the preschool performance report. In the case of delayed evaluation due to COVID-19, IEP meetings and EI transition data will be delayed. Due to these unforeseen circumstances, RIDE will be extending the preschool performance report due date until September 30<sup>th</sup>, 2020.

After July 1st, 2020, districts will no longer capture EI transition data on the bottom of the EC Environment Form (section 38) and instead complete the new [EI Transition Form](#) at the initial IEP meeting. The form will continue to be filled out at the initial IEP meeting, or in the case of termination of the referral process, at that time.

**Exceptions:** The federal requirement that children transitioning from Part C (Early Intervention) to Part B have an IEP implemented by their third birthday has not been waived. The exceptions to the requirement also remain consistent. Acceptable exceptions include when a child is referred and determined eligible for Early Intervention within 90 days of the 3<sup>rd</sup> birthday, as well as:

- \_\_\_\_\_ Delay Reason #1- Child turned three during the period of school closing
- \_\_\_\_\_ Delay Reason #2- Parental refusal to provide consent for evaluation or initial service
- \_\_\_\_\_ Delay Reason #3- Repeated parental failure to produce child for evaluations
- \_\_\_\_\_ Delay Reason #4 -Relocation of the family to your LEA during the transition process

While all delay reasons can be used, districts may want to consider the relevancy of delay reason #3 if the family chose not to participate in a necessary virtual evaluation, which ultimately resulted in a delay of service.

\*Delay Reason #1 would not be used due to school building closure due to COVID-19, as distance-learning is taking place, and school is not considered closed.

\*Consistent with the intention of the EI transition process, districts should *not find children ineligible* for special education services due exclusively to a required extension of the evaluation timeline, due to COVID-19. Children should only be found ineligible if a comprehensive evaluation has taken place, and the child was, in fact, ineligible.

**Question: Are there valid ECSE evaluation/assessment tools that can be completed virtually through observation or interview?**

**Answer: The timelines for initial evaluation have not been waived, and LEA's are encouraged to explore virtual means to conduct child-find activities, including initial evaluations for young children. Districts may want to consider, therefore, assessment tools that make use of parent interviews or observation. The following instruments may prove helpful to evaluation teams, during this time of distance learning, but have not been vetted or endorsed by RIDE.**

- Vineland Adaptive Behavior Scale
- Developmental Assessment of Young Children (DAYC)
- Adaptive Behavior Assessment System (ABAS)
- Devereux Early Childhood Assessment (DECA – Social-Emotional)
- MacArthur-Bates Communicative Development Inventories (CDI)
- REEL-3: Receptive-Expressive Emergent Language Test – Third Edition
- Survey or Questionnaire-Based BDI3- (not yet available)

### **Early Childhood Special Education (ECSE): Child Outcomes Summary (COS)**

**Question:** Are districts still required to complete the Child Outcomes Summary (COS) process and to report results to RIDE?

**Answer:** Yes, OSEP has not granted any exceptions to the required COS entry or exit data. The three components of the COS entries (COS A, B, & C) can be completed with families through the process of virtual ET and IEP meetings. The three components of the COS exits can also take place with families during virtual meetings. Children that enter preschool special education after December 13th, 2019, will not require a COS exit. All districts are required to enter the COS ratings into the annual preschool performance report.