

§303.209 Transition to preschool and other programs.

(a) *Application requirements.* Each State must include the following in its application:

(1) A description of the policies and procedures it will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under this part to—

(i) Preschool or other appropriate services (for toddlers with disabilities); or

(ii) Exiting the program for infants and toddlers with disabilities.

(2) A description of how the State will meet each of the requirements in paragraphs (b) through (f) of this section.

(3)(i)(A) If the lead agency is not the SEA, an interagency agreement between the lead agency and the SEA; or

(B) If the lead agency is the SEA, an intra-agency agreement between the program within that agency that administers Part C of the Act and the program within the agency that administers section 619 of the Act.

(ii) To ensure a seamless transition between services under this part and under Part B of the Act, an interagency agreement under paragraph (a)(3)(i)(A) of this section or an intra-agency agreement under paragraph (a)(3)(i)(B) of this section must address how the lead agency and the SEA will meet the requirements of paragraphs (b) through (f) of this section (including any policies adopted by the lead agency under §303.401(d) and (e)), §303.344(h), and 34 CFR 300.101(b), 300.124, 300.321(f), and 300.323(b).

(4) Any policy the lead agency has adopted under §303.401(d) and (e).

(b) *Notification to the SEA and appropriate LEA.* (1) The State lead agency must ensure that—

(i) Subject to paragraph (b)(2) of this section, not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the lead agency notifies the SEA and the LEA for the area in which the toddler resides that the toddler on his or her third birthday

will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law;

(ii) Subject to paragraph (b)(2) of this section, if the lead agency determines that the toddler is eligible for early intervention services under Part C of the Act more than 45 but less than 90 days before that toddler's third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the lead agency, as soon as possible after determining the child's eligibility, notifies the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or

(iii) Subject to paragraph (b)(2) of this section, if a toddler is referred to the lead agency fewer than 45 days before that toddler's third birthday and that toddler may be eligible for preschool services under Part B of the Act, the lead agency, with parental consent required under §303.414, refers the toddler to the SEA and the LEA for the area in which the toddler resides; but the lead

see "Additional Regulations" in this handout:
A | Parent Consent



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agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances.

(2) The State must ensure that the notification required under paragraphs (b)(1)(i) and (b)(1)(ii) of this section is consistent with any policy that the State has adopted, under §303.401(e), permitting a parent to object to disclosure of personally identifiable information.

(c) **Conference to discuss services.** The State lead agency must ensure that—

(1) If a toddler with a disability may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the toddler’s third birthday to discuss any services the toddler may receive under Part B of the Act; and

(2) If the lead agency determines that a toddler with a disability is not potentially eligible for preschool services under Part B of the Act, 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 appropriate services that the toddler may receive.

(d) **Transition plan.** The State lead agency must ensure that for all toddlers with disabilities—

(1)(i) It reviews the program options for the toddler with a disability for the period from the toddler’s third birthday through the remainder of the school year; and

(ii) Each family of a toddler with a disability who is served under this part is included in the development of the transition plan required under this section and §303.344(h);

(2) It establishes a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the toddler’s third birthday; and

(3) The transition plan in the IFSP includes, consistent with §303.344(h), as appropriate—

(i) Steps for the toddler with a disability and his or her family to exit from the Part C program; and

(ii) Any transition services that the IFSP Team identifies as needed by that toddler and his or her family.

(e) **Transition conference and meeting to develop transition plan.** Any conference conducted under paragraph (c) of this section or meeting to develop the transition plan under paragraph (d) of this section (which conference and meeting may be combined into one meeting) must meet the requirements in §§303.342(d) and (e) and 303.343(a).

(f) **Applicability of transition requirements.** (1) The transition requirements in paragraphs (b)(1)(i) and (b)(1)(ii), (c)(1), and (d) of this section apply to all toddlers with disabilities receiving services under this part before those toddlers turn age three, including any toddler with a disability under the age of three who is served by a State that offers services under §303.211.

(2) In a State that offers services under §303.211, for toddlers with disabilities identified in §303.209(b)(1)(i), the parent must be provided at the transition conference conducted under paragraph (c)(1) of this section:

(i) An explanation, consistent with §303.211(b)(1)(ii), of the toddler’s options to continue to receive early intervention services under this part or preschool services under section 619 of the Act.

see “Additional Regulations” in this handout:
B | Transition in the IFSP

see “Additional Regulations” in this handout:
C | Meetings

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D | Services under §300.211

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(ii) The initial annual notice referenced in §303.211(b)(1).

see "Additional Regulations" in this handout:
E | Annual Notice

(3) For children with disabilities age three and older who receive services pursuant to §303.211, the State must ensure that it satisfies the separate transition requirements in §303.211(b)(6)(ii).

see "Additional Regulations" in this handout:
F | Separate Requirements

(1) Sections 303.401(d), 303.209(b)(1)(i) and (b)(1)(ii), and 303.211(b)(6)(ii)(A); or

(2) One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this part, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39; in applying these provisions in 34 CFR part 99 to Part C, the reference to—

(i) 34 CFR 99.30 means §303.414(a);

(ii) "Education records" means early intervention records under §303.403(b);

(iii) "Educational" means early intervention under this part;

(iv) "Educational agency or institution" means the participating agency under §303.404(c);

(v) "School officials and officials of another school or school system" means qualified personnel or service coordinators under this part;

(vi) "State and local educational authorities" means the lead agency under §303.22; and

(vii) "Student" means child under this part.

(c) The lead agency must provide policies and procedures to be used when a parent refuses to provide consent under this section (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this part), provided that those procedures do not override a parent's right to refuse consent under §303.420.

ADDITIONAL REGULATIONS REFERENCED

A | Parent Consent—§303.414

§303.414 Consent prior to disclosure or use.

(a) Except as provided in paragraph (b) of this section, prior parental consent must be obtained before personally identifiable information is—

(1) Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this part, subject to paragraph (b) of this section; or

(2) Used for any purpose other than meeting a requirement of this part.

(b) A lead agency or other participating agency may not disclose personally identifiable information, as defined in §303.29, to any party except participating agencies (including the lead agency and EIS providers) that are part of the State's Part C system without parental consent unless authorized to do so under—



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B | Transition in the IFSP— §303.344(h)

(h) *Transition from Part C services.* (1) The IFSP must include the steps and services to be taken to support the smooth transition of the child, in accordance with §§303.209 and 303.211(b)(6), from Part C services to—

(i) Preschool services under Part B of the Act, to the extent that those services are appropriate;

(ii) Part C services under §303.211; or

(iii) Other appropriate services.

(2) The steps required in paragraph (h)(1) of this section must include—

(i) Discussions with, and training of, parents, as appropriate, regarding future placements and other matters related to the child's transition;

(ii) Procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting;

(iii) Confirmation that child find information about the child has been transmitted to the LEA or other relevant agency, in accordance with §303.209(b) (and any policy adopted by the State under §303.401(e)) and, with parental consent if required under §303.414, transmission of additional information needed by the LEA to ensure continuity of services from the Part C program to the Part B program, including a copy of the most recent evaluation and assessments of the child and the family and most recent IFSP developed in accordance with §§303.340 through 303.345; and

(iv) Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the child.

**C | Meetings — §§303.342(d) and (e)**

(d) *Accessibility and convenience of meetings.* (1) IFSP meetings must be conducted—

(i) In settings and at times that are convenient for the family; and

(ii) In the native language of the family or other mode of communication used by the family, unless it is clearly not feasible to do so.

(2) Meeting arrangements must be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they will be able to attend.

(e) *Parental consent.* The contents of the IFSP must be fully explained to the parents and informed written consent, as described in §303.7, must be obtained, as required in §303.420(a)(3), prior to the provision of early intervention services described in the IFSP. Each early intervention service must be provided as soon as possible after the parent provides consent for that service, as required in §303.344(f)(1).

§303.343 IFSP Team meeting and periodic review.

(a) *Initial and annual IFSP Team meeting.* (1) Each initial meeting and each annual IFSP Team meeting to evaluate the IFSP must include the following participants:

(i) The parent or parents of the child.

(ii) Other family members, as requested by the parent, if feasible to do so.

(iii) An advocate or person outside of the family, if the parent requests that the person participate.

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(iv) The service coordinator designated by the public agency to be responsible for implementing the IFSP.

(v) A person or persons directly involved in conducting the evaluations and assessments in §303.321.

(vi) As appropriate, persons who will be providing early intervention services under this part to the child or family.

(2) If a person listed in paragraph (a)(1)(v) of this section is unable to attend a meeting, arrangements must be made for the person's involvement through other means, including one of the following:

- (i) Participating in a telephone conference call.
- (ii) Having a knowledgeable authorized representative attend the meeting.
- (iii) Making pertinent records available at the meeting.

D | Services under §303.211

§303.211 State option to make services under this part available to children ages three and older.

(a) *General.* (1) Subject to paragraphs (a)(2) and (b) of this section, a State may elect to include in its application for a grant under this part a State policy, developed and implemented jointly by the lead agency and the SEA, under which a parent of a child with a disability who is eligible for preschool services under section 619 of the Act and who previously received early intervention services under this part, may choose the continuation of early intervention services under this part for his or her child after the child turns three until the child enters, or is eligible under State law to enter, kindergarten or elementary school.



(2) A State that adopts the policy described in paragraph (a)(1) of this section may determine whether it applies to children with disabilities—

- (i) From age three until the beginning of the school year following the child's third birthday;
- (ii) From age three until the beginning of the school year following the child's fourth birthday; or
- (iii) From age three until the beginning of the school year following the child's fifth birthday.


(3) In no case may a State provide services under this section beyond the age at which the child actually enters, or is eligible under State law to enter, kindergarten or elementary school in the State.

E | Annual Notice—303.211(b)(1)

(b) *Requirements.* If a State's application for a grant under this part includes the State policy described in paragraph (a) of this section, the system must ensure the following:

(1) Parents of children with disabilities who are eligible for services under section 619 of the Act and who previously received early intervention services under this part will be provided an annual notice that contains—

- (i) A description of the rights of the parents to elect to receive services pursuant to this section or under Part B of the Act; and
- (ii) An explanation of the differences between services provided pursuant to this section and services provided under Part B of the Act, including—
 - (A) The types of services and the locations at which the services are provided;
 - (B) The procedural safeguards that apply; and

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(C) Possible costs (including the costs or fees to be charged to families as described in §§303.520 and 303.521), if any, to parents of children eligible under this part.

(2) Consistent with §303.344(d), services provided pursuant to this section will include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills.

(3) The State policy ensures that any child served pursuant to this section has the right, at any time, to receive FAPE (as that term is defined at §303.15) under Part B of the Act instead of early intervention services under Part C of the Act.

(4) The lead agency must continue to provide all early intervention services identified in the toddler with a disability's IFSP under §303.344 (and consented to by the parent under §303.342(e)) beyond age three until that toddler's initial eligibility determination under Part B of the Act is made under 34 CFR 300.306. This provision does not apply if the LEA has requested parental consent for the initial evaluation under 34 CFR 300.300(a) and the parent has not provided that consent.

(5) The lead agency must obtain informed consent from the parent of any child with a disability for the continuation of early intervention services pursuant to this section for that child. Consent must be obtained before the child reaches three years of age, where practicable.



F | Separate Transition Requirements under 303.211(b)(6)(ii)

(6)(ii) For toddlers with disabilities age three and older in a State that offers services under this section, the lead agency ensures a smooth transition from services under this section to preschool, kindergarten or elementary school by—

(A) Providing the SEA and LEA where the child resides, consistent with any State policy adopted under §303.401(e), the information listed in §303.401(d)(1) not fewer than 90 days before the child will no longer be eligible under paragraph (a)(2) of this section to receive, or will no longer receive, early intervention services under this section;

(B) With the approval of the parents of the child, convening a transition conference, among the lead agency, the parents, and the LEA, not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the child will no longer be eligible under paragraph (a)(2) of this section to receive, or no longer receives, early intervention services under this section, to discuss any services that the child may receive under Part B of the Act; and

(C) Establishing a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the child will no longer be eligible under paragraph (a)(2) of this section to receive, or no longer receives, early intervention services under this section.