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Preschool Policy Memorandum #08-001, Updated

DATE: June 16, 2014

TO: Special Education Supervisors

FROM: Joey Hassell, assistant commissioner, Division of Special Populations
Linda Hartbarger, executive director Early Childhood IDEA Programs,
Division of Special Populations

RE: **Timeline Requirements for Children Referred by Part C (TEIS)**

This memorandum serves to provide updated clarification regarding the timeline requirements for children referred from Part C, Tennessee's Early Intervention System (TEIS). Timeline requirements are linked to the federal Annual Performance Report (APR): Part C (early intervention) Indicator 8C, and Part B (preschool) Indicators 11 and 12.

Indicator 8C (Timely Transition Planning Conference): The percent of all children exiting Part C potentially eligible for preschool services who received a timely transition planning conference to support the child's transition to IDEA 619 preschool and other appropriate community services by their third birthday.

- Timeline requirements: "...[TEIS] convenes a conference among the lead agency, the family, and the local education agency not fewer than 90 days – and at the discretion of all parties, not more than nine months – before the toddler's third birthday to discuss any services that the toddler may receive under Part B of the Act." 34 CFR §303.209(c)(1); 20 U.S.C. §1437(a)(9)(A)(ii)(II)

Indicator 11 (Timely Evaluation): The percent of children who were evaluated within 60 calendar days of receiving parental consent for initial evaluation.

- Timeline requirements: The initial evaluation must be conducted within 60 calendar days of receiving parental consent for the evaluation 34 CFR §300.301(c). This requirement applies to all children. Particular emphasis will be placed on this requirement beginning July 1, 2014 to include children transitioning from Part C.
- Exception: Pursuant to 34 CFR §300.301(d), the only exceptions to the 60 calendar day evaluation requirement following initial consent relevant to preschool aged children are:
 - the parent of a child repeatedly failing or refusing to produce the child for evaluation; or
 - the child enrolls in another local education agency (LEA) after the 60 day timeline has started and the subsequent LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the subsequent LEA agree to a specific time when the evaluation will be completed.

An Individualized Education Program (IEP) must be developed within 30 days of the student's initial eligibility determination and should not exceed his/her third birthday.

Indicator 12 (Part C to B Transition): The percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

- **Timeline requirements:** For the child who has been determined eligible for special education services under IDEA Part B and is entitled to a Free Appropriate Public Education (FAPE) on his or her third birthday, an IEP shall have been developed for the child and implemented on the child's third birthday. 20 U.S.C. 1412(a)(9); 34 CFR §300.124(b)
- LEAs must meet the Indicator 12 requirements of implementing the IEP by the third birthday for all children served by and transitioning from TEIS Part C, even if a timely transition planning conference did not take place. Therefore, it is particularly important for LEAs to maintain regular communication with their regional TEIS offices to help ensure the Indicator 12 requirements are met.

Clarifications related to timeline requirements:

1. For late referrals, less than 90 days prior to the child's third birthday, all reasonable effort must be made to have an IEP in place by the child's third birthday. When this is not possible, at a minimum the 60 calendar days to determine eligibility following parental consent and the subsequent 30 days to implement the IEP are still in effect. For evaluations completed outside of the 60 calendar day timeline, an Evaluation Timeline Extension for Indicator 11 may only be requested if the reason for delay is considered one of the exceptions noted in 34 CFR §300.301(d).
2. While there is no formal extension process relative to Indicator 12, exceptions that result from extenuating circumstances may be considered by the Tennessee Department of Education. The LEA must provide thorough documentation justifying why the IEP team was unable to develop an IEP by the child's third birthday.
3. As a matter of best practice with regard to Indicator 12, IEP meetings should be scheduled far enough in advance of the child's third birthday to accommodate the possibility of extenuating circumstances.
4. The intent of IDEA relative to a child who is Part C eligible and who is receiving early intervention services is to ensure a seamless transition at age three years when Part B eligibility has been determined.

All prior directives from the division regarding this subject are superseded by this memorandum.

cc: Gary Smith, IDEA 619 coordinator
Theresa Nicholls, Director of Special Education Eligibility
Joan Kennedy, Part C coordinator