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DEPARTMENT OF EDUCATION
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South Dakota Guidance: Transition from IDEA Part C to IDEA Part B

Individuals with Disabilities Education Act (IDEA)

South Dakota Department of Education
800 Governors Drive
Pierre, South Dakota 57501

**South Dakota Guidance:
Transition Process
IDEA Part C to IDEA Part B**

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PURPOSE

The purpose of this guidance document is to provide clarifying information regarding the transition process from IDEA Part C early intervention into IDEA Part B special education preschool services.

This guidance is meant to assist the South Dakota Birth to Three Program and South Dakota Local Education Agencies (LEA) to facilitate a smooth and effective transition for eligible families and children.

South Dakota 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).

PART C AND PART B STATE PERFORMANCE PLAN AND ANNUAL PERFORMANCE REPORT (SPP/APR) INDICATORS

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:

- A. IFSPs with transition steps and services;
- B. Notification to LEA of residence, if child potentially eligible for Part B; and
- C. Transition conference, if child potentially eligible for Part B.

Part B Indicator B11 Child Find

Percent of children who were evaluated within 25 days of receiving parental consent for initial evaluation.

Part B Indicator B12 Effective Transition

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 birthday.

QUESTIONS, DISCUSSION, AND REGULATIONS

Each section in this manual is presented in Question and Answer format followed by discussion and federal and state regulatory references. The discussion clarifies the regulatory and rule references as needed and provides additional information about evidence-based and field-tested practices that have shown to be effective relating to the topic. Direct language from Federal Statute or Regulations and Administrative Rules of South Dakota (ARSD) and Part C State Rules follow the discussions as appropriate.

INDIVIDUALIZED STEPS AND SERVICES FOR TRANSITION PLANNING

1. *What is the role of the Part C Service Coordinator in transition planning with the family?*

Discussion

With the approval of the family, the Service Coordinator will convene a transition conference between the Individual Family Service Plan (IFSP) team and the local educational agency at least 90 days and not more than nine months before the child may be eligible for the preschool program under Part B of Individuals with Disabilities Education Act (IDEA), in accordance with state law. The Service Coordinator is responsible for scheduling the transition meeting, including the invitation to the LEA representative. The IFSP Team meets with the family to identify and document the steps that will support the child and family through the transition process. These individualized steps are documented on the transition plan within the IFSP.

The IFSP Team informs the family of when their child may transition, in accordance with state statute. The IFSP Team also informs the family of the array of services and program options that may be available including: Part B preschool special education; Head Start; childcare centers; private preschools or other community-based settings, etc. and will assist the family in accessing these program options.

The IFSP Team shall discuss options for preschool settings. This is to ensure the child will be with typically developing peers. This will also address the parent(s) need for child care (if they work or are in school) and how this might be arranged if the preschool is only half (1/2) day.

2. *What is the responsibility of LEA staff during early transition planning process?*

Discussion

A school district representative is required to attend the initial eligibility determination meeting and transition conference for all Part C children. Should a child be identified as in need of prolonged assistance, a school district representative must be present at all IFSP meetings.

LEAs are encouraged to routinely communicate with Service Coordinators about public school programs, activities and resources. LEAs should collaborate with Service Coordinators to provide parents with information about services available through school districts and support parent and family involvement in the transition planning process. LEA staff is encouraged to be responsive to Service Coordinators and families for requests of information and opportunities to meet with school personnel, visit school programs, and tour facilities.

Federal Regulations

As part of the Part C requirements for specific service coordination activities under **34 CFR §303.34 Service Coordination**, activities include (10) Facilitating the development of a transition plan to preschool, school, or if appropriate, to other services.

34 CFR. §303.344 - (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 Sec. 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; or (ii) Part C services under Sec. 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 Sec. 303.209(b) (and any policy adopted by the State under Sec. 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 the most recent IFSP developed in accordance with Sec. 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.

South Dakota State Rules

24:05:22:04. Services for children less than three years of age. Each school district shall provide special education or special education and related services for children less than three years of age who are in need of prolonged assistance.

24:14:13:05. Transition from Part C program. The IFSP team shall ensure the transition of children participating in the Part C program under this article who are eligible for participation in preschool programs under Part B of Individuals with Disabilities Education Act as amended to July 1, 2012. This requirement includes the transition of children to other appropriate services if they will not be receiving preschool services, to the extent those services are appropriate, under Part B of IDEA. The IFSP must include the following steps and services to support the transition of the child pursuant to 24:14:13:05.01:

- (1) Describe how the families will be included in the transitional plans;
- (2) Discuss with and train parents, as appropriate, regarding future placements and other matters relating to the child's transition;

South Dakota State Rules

24:14:13:05 cont.

(3) Notify the appropriate local education agency in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of IDEA, as determined in accordance with state law, of the need for transitional planning;

(4) With the approval of the family, convene a conference between the IFSP team, family, and local educational agency at least 90 days and at the discretion of the parties, and not more than nine months before the child is eligible for the preschool program under Part B of Individuals with Disabilities Education Act, in accordance with state law. In the case of a child who may not be eligible for preschool services under Part B of IDEA, with the approval of the family, make reasonable efforts to convene a conference among the IFSP team, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B of IDEA, to discuss the appropriate services that the child may receive;

(5) Review the child's program options for the period beginning on the day the child turns three and running through the remainder of the school year; and

(6) Prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting.

The local school district must provide the family with information on the eligibility and evaluation requirements under Part B of Individuals with Disabilities Education Act, including the parent's and district's rights regarding procedural safeguards. Information may be transmitted upon consent of the parent or guardian.

NOTIFICATION AND REFERRAL TO LEA

3. What is the requirement for notification of the LEA?

Discussion

Notification is required in accordance with IDEA Part C Sec. 303.209 (b) (1)(i), which states "...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."

The Department of Education, as the lead agency and state education agency (SEA), must notify the local education agency (LEA) of children who reside in the LEA's educational jurisdiction and who are potentially eligible for Part B services prior to the child's third birthday. For this purpose, potentially eligible is considered to be those children eligible under Part C's eligibility criteria.

The notification must include: the child's name, date of birth, the LEA in which the child resides, and the contact information of the parent(s). In accordance with OSEP's correspondence "Letter to Elder" dated 02/11/2004, this disclosure of limited personally identifiable information is allowed without parent consent under FERPA (Family Educational Rights & Privacy Act). The LEA 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 LEA.

In addition, the Service Coordinator will contact the LEA to schedule the transition conference. A transition conference must occur even if the LEA is unable to attend.

4. What is the LEA's responsibility under Part B if a child who has been served in Part C is referred to Part B?

Discussion:

When the LEA is notified of a child from Part C, because all children are considered potentially eligible, it must initiate the evaluation process under Part B. If the child is determined eligible under Part B as a result of the evaluation process, then the IEP

team must develop and implement an individualized education program (IEP) by the child's third birthday.

5. *Must the team develop a transition plan in the IFSP when a child has been referred to Part C fewer than 90 or 45 days prior to the child's third birthday and is Part C required to provide notification to the LEA?*

Discussion:

If a child is referred to Part C fewer than 45 days prior to the child's third birthday, Part C may, but is not required to, conduct an initial evaluation eligibility meeting and initial IFSP meeting for that child.

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, then Part C must conduct the initial evaluation, eligibility meeting and initial IFSP meeting. Part C must develop a transition plan (with the appropriate transition steps and services). Generally, in these instances, the transition plan would be part of the initial IFSP.

If the child is determined eligible, and is receiving services under Part C (which includes service coordination services), Part C must conduct LEA Notification for that child.

6. *What are the planning steps that need to occur by Service Coordinators and LEA staff for the transition conference?*

Discussion:

The IFSP must include the following steps to support the transition of the child:

- (1) Describe how the families will be included in the transition plans;
- (2) Discuss with and collaborate with parents regarding future placements and other matters relating to the child's transition;
- (3) Notify the appropriate local education agency in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of IDEA, as determined in accordance with state law, of the need for transition planning;
- (4) With the approval of the family, convene a conference between the IFSP team, family, and local educational agency at least 90 days and at the discretion of the parties not more than nine months before the child is eligible for the preschool

program under Part B of Individuals with Disabilities Education Act, in accordance with state law. In the case of a child who may not be eligible for preschool services under Part B of IDEA, with the approval of the family, make reasonable efforts to convene a conference among the IFSP team, the family, and providers of other appropriate services for children who are not eligible for preschool services under Part B of IDEA to discuss the appropriate services that the child may receive;

(5) Review the child's program options for the period beginning on the day the child turns three through the remainder of the school year; and

(6) Prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting.

The local school district must provide the family with information on the eligibility and evaluation requirements under Part B of Individuals with Disabilities Education Act and ensure that the parent's have received their parental rights regarding procedural safeguards. Information may be shared upon consent of the parent or guardian.

7. What happens if a family declines to be referred to the LEA?

Discussion:

All children eligible under Part C are considered potentially eligible for services under Part B of IDEA and therefore are automatically referred to the LEA before the child's third birthday. It is the responsibility of the LEA to contact the parent to determine if the parent wants to pursue an evaluation to determine eligibility for Part B services for their child. Once the LEA contacts the parent, the parent has the right to decline Part B services. If a parent declines Part B services, the LEA is responsible for documenting the status of the child and tracking that information.

Federal Regulations

As a part of **Sect. 637(a)(9) of the IDEA Statute for Part C** (ii) the lead agency designated or established under section 635(a)(10) will (I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

State Rules

24:05:27:21. Transition to preschool program. Each local school district shall develop policies and procedures for the transition of children participating in the early intervention program under Part C of the Individuals with Disabilities Education Act (IDEA) who are eligible for participation in

preschool programs under Part B of IDEA.

Each district's policies and procedures must include the following:

- (1) A description of how the families will be included in the transitional plans;

- (2) Procedures to be used by the district for notifying the local network in which the child resides of the need for transitional planning;
- (3) Procedures for convening, with the approval of the family, a conference between the network, family, and district;
- (4) A requirement for convening the conference at least 90 days, and at the discretion of all parties, not more than 9 months before the child is eligible for the preschool program under Part B of Individual with Disabilities Education Act; and
- (5) Procedures for reviewing a child's program options for the period beginning with the day a child turns three and running through the remainder of the school year including the development and implementation of an individual education program consistent with this article.

Each affected district shall participate in transition planning conferences arranged by the IDEA, Part C, program.

In the case of a child with a disability, aged three, previously eligible for Part C of IDEA, the IEP team must consider the child's IFSP that contains the IFSP content, including the natural environments statement, described in article 24:14.

TRANSITION CONFERENCE

8. Who convenes and attends the Transition Conference?

Discussion:

If the family approves of a Transition Conference, it is the responsibility of the Service Coordinator to invite an LEA representative to the Transition Conference.

It is the legal responsibility of the LEA representative to respond to the Service Coordinator's invitation and participate. Minimally, attendees to the Transition Conference should include the family, Part C Service Coordinator, LEA representative, service providers and any other agency considered for future services. Examples of other agencies might include Head Start, Child Care, SD School for the Deaf, and the SD School for the Blind and Visually Impaired

Service Coordinators and LEA staff should schedule the conference earlier than 90 days before the child's third birthday, as this is a minimum timeline. The law allows up to nine months prior to the child's third birthday for the conference to be scheduled. Service Coordinators should communicate with LEA personnel to coordinate the scheduling of conferences to promote LEA participation and attendance.

If any party is unable to attend the transition conference, the meeting may be rescheduled. However, Part C is required by law to convene the Transition Conference within the regulatory timelines. Service Coordinators should document instances when the LEA does not attend if attempts to reschedule are unsuccessful. If Service Coordinator does not schedule the transition conference 90 days prior to the child's third birthday, the LEA should document this information and contact the Service Coordinator and the state Part C office.

9. What happens if the parents do not want the LEA to attend the transition meeting?

Discussion:

According to OSEP guidance and regulations, the parent can refuse/not approve to have the Transition Conference, but if they do have one, by law the LEA must be invited.

10. What steps need to occur if parent is ready to proceed with the possible Part B Eligibility Determination Process?

- Families should have already received a copy of the procedural safeguards, but it is always good to bring an extra copy for them
- Review Prior Notice of Consent to Evaluate
- Provide an overview of the Procedural Safeguards and obtain written consent for education evaluation (this starts the timeline for 25 days to complete the Initial evaluation for Part B)
- Review current evaluation and assessments, including the child's IFSP, and determine if additional testing will be needed. (Parental consent must be given to obtain an IFSP outside the Transition Conference)
- Determine next steps (including visits to the possible settings)
- Part C service coordinator completes IFSP transition documentation

Some families are ready to move forward with the LEA processes, 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 because families often need more time to consider their options.

11. What occurs during the Transition Conference?

Discussion:

The Transition Conference provides an opportunity for families to learn about the LEA's programs and services, and for the LEA to learn about the child and the family. Representatives from the LEA and other appropriate agencies and programs should provide information about their services, answer questions and provide information about family rights.

The family may already be aware of the LEA programs as transition planning occurs over time as a responsibility of the IFSP Team. Learning about program options and services in advance of the Transition Conference facilitates the development of a transition plan with steps and services outlined in the child's IFSP. However, it is not uncommon for a family to be new to the Part C program and unaware of LEA programs and services.

State Rules

24:14:13:05.1 IFSP Transition. An IFSP must include the following steps and services to support the transition of the child.

- (1) Describe how the families will be included in the transitional plans;
- (2) Discuss with and train parents, as appropriate, regarding future placements and other matters relating to the child's transition;
- (3) Notify the appropriate local education agency in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of IDEA, as determined in accordance with state law, of the need for transitional planning;
- (4) with the approval of the family, convene a conference between the IFSP team, family, and local educational agency at least 90 days and at the discretion of the parties, and not more than nine months before the child is eligible for the preschool program under Part B of the Individuals with Disabilities Education Act, in accordance with state law. In the case of a child who may not be eligible for preschool services under Part B of IDEA, with the approval of the family, make reasonable efforts to convene a conference among the IFSP team, the family and providers of other appropriate services for children who are not eligible for preschool services under Part B of IDEA, to discuss the appropriate services that the child may receive.
- (5) Review the child's program options for the period beginning on the day the child turns three and running through the remainder of the school year; and
- (6) Prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting.

The local school district must provide the family with information on the eligibility and evaluation requirements under Part B of Individuals with Disabilities Education Act, including the parent's and district's rights regarding procedural safeguards. Information may be transmitted upon consent of the parent or guardian.

Summary of Transition Team Members & Roles:

Early Intervention/Service

Coordinator Role

- Invite a representative from the LEA to attend the Transition Conference
- Arrange for the meeting in a location and at a time agreeable to the family
- Provide prior notice of the meeting to the family
- Send records to the LEA if the family consents
- 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
- Provide written notification to the LEA of a potentially eligible child

LEA's Role

- Inform the family of their rights in special education
- Consider the family's questions and concerns about the transition
- Obtain parental consent to evaluate
- 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
- Provide information on how the LEA can work with the child and family in different settings

Family's Role

- Share hopes and dreams for the 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 the child

Federal Regulations

34 CFR § 300.209 Transition to preschool and other programs. The State must have in effect policies and procedures 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 Part C to preschool or other appropriate services.

Federal Regulations cont.

Part B Regulations 34CFR § 300.124

(c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act

34CFR § 300.503 Prior notice by the public agency; content of notice

(a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child;

§ 300.504 Procedural safeguards notice

(a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents—(1) Upon initial referral or parent request for evaluation;

State Rules

24:05:28:10. Preschool programs. The requirements of this chapter apply to all eligible preschool children, ages three to five, inclusive, who are entitled to receive a free appropriate public education. In each case, the school district must ensure that placement is based upon each child's individual education program and meets all the other requirements of this chapter.

24:05:25:16. Parent participation. Each district shall take steps to ensure that one or both parents of the child are present at each IEP team meeting or are afforded the opportunity to participate. The district shall notify parents of the meeting early enough to ensure that they will have an opportunity to attend, scheduling the meeting at a mutually agreed-upon time and place. The notice to the parents shall state the purpose, time, and location of the IEP team meeting and who will be in attendance and inform the parents of the provisions relating to the participation of other individuals on the IEP team who have knowledge or special expertise about the child, including information related to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA. If parents cannot attend, the district shall use other methods to ensure participation, including individual or conference telephone calls consistent with § 24:05:27:08.04

24:05:30:06.01. Procedural safeguards notice -- Availability. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy must also be given to the parent: (1) Upon initial referral or parental request for evaluation; (2) Upon request by a parent; (3) In accordance with the discipline procedures in chapters 24:05:26 and 24:05:26.01; and (4) Upon receipt of the first state complaint under chapter 24:05:15 and first due process complaint under this chapter in a school year.

A district may place a current copy of the procedural safeguards notice on its internet website if a website exists.

CONSENT TO EVALUATE

12. Can parent consent for Part B initial evaluation be obtained at the Transition Conference?

Discussion

The LEA 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 LEA representative is responsible for providing and describing Part B Procedural Safeguards to the parents. 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 may decline consent if they have decided not to proceed with Part B initial evaluation and eligibility determination processes.

The LEA representative must provide prior notice regarding consent to evaluate. The contents of the Part B prior notice must include:

- A description of the actions proposed by the LEA
- A description of each evaluation or assessment to be used
- A statement regarding Part B Parent and Students rights and a copy of the Part B Procedural Safeguards (if the parents have not already received them)

13. 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 decline consent if they decide not to proceed with Part B initial evaluation and eligibility determination process.

If the parent does not consent to proceeding with the Part B evaluation and eligibility determination process, they are choosing to not continue with

Individuals with Disabilities Education Act (IDEA) services. (Parents may request to start the evaluation process for Part B eligibility at any time in the future.)

The LEA is responsible for documenting the status of the child and tracking that information.

Federal Regulations

34 CFR § 300.300 Parental consent.(a) Parental consent for initial evaluation. (1)(i) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under § 300.8 must, after providing notice consistent with §§ 300.503 and 300.504, obtain informed consent, consistent with § 300.9, from the parent of the child before conducting the evaluation.

(ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.

(iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

34 CFR § 300.9 Consent. Consent means that--

(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;

(b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

(c) (1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

State Rules

24:05:25:02.01. Parental consent for initial evaluation. Any school district proposing to conduct an initial evaluation to determine whether a child qualifies as a child with a disability shall, after providing notice consistent with chapter 24:05:30, obtain informed consent from the parent of the child before conducting the evaluation.

Parental consent for initial evaluation may not be construed as consent for initial provision of special education and related services.

The school district shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

To meet the reasonable efforts requirement in this section, the district shall document its attempts to obtain parental consent using the procedures in § 24:05:25:17.

INITIAL EVALUATION AND ELIGIBILITY DETERMINATION FOR PART B SERVICES

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

Discussion:

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 LEA and learn more about the steps in the process of determining possible eligibility. An initial review of a child's records may occur during the conference.

15. What is the LEA responsibility for conducting an initial evaluation?

Discussion:

The LEA is responsible for obtaining written informed parental consent and conducting the evaluation within 25 school days from date of consent. The purpose of the initial evaluation is to determine if the child qualifies as a child with a disability, and if the child requires special education and related services to benefit from the education program.

Prior to conducting evaluations to determine eligibility, the LEA team must review any existing data, including evaluations, assessments, teacher observations, and information provided by parents and/or the Part C Program. The LEA must obtain parent written permission to release information from the Part C program in order to access existing assessment and evaluation data.

As part of the Part B evaluation procedures, the team must utilize a variety of testing 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. Other factors to consider are: health, vision, hearing, social emotional status, academic performance, communication and motor skills. Specific evaluations considered necessary for determining eligibility is the responsibility of the LEA to complete or obtain, including hearing and vision.

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 the need for special education and related services. The LEA should use technically sound instruments that may test the relative contribution of cognitive and behavior factors in addition to physical or development factors. The instruments should be used in accordance with documented instructions and for the purpose for which they were designed. The LEA should ensure the use of non-discriminatory instruments which are in child's native language. As part of a parent's procedural safeguards under Part B, a parent has the right to have an independent evaluation at public expense if the parent disagrees with an evaluation obtained by the district, subject to the conditions in the procedural safe guard section.

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 South Dakota Part B eligibility requirements.

The LEA must, at no cost to the parent, provide a copy of the evaluation report and the documentation of the child's eligibility. At the request of the parent, documentation of the eligibility determination for Part B will also be sent to the referring Part C Service Coordinator.

17. Can LEAs use assessments and evaluation information from the Part C Program in determining a child's eligibility for Part B services?

Discussion:

An LEA 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. Part C programs have substantial, pertinent information, both qualitative and quantitative that is valuable to the IEP team. In some instances, the information

from the Part C Birth to Three program may be sufficient in determining eligibility, but should not be considered as the sole source of data.

LEA's should always consider the child's evaluations if they have been completed within six months of the consent for evaluations. It is not an efficient use of resources to evaluate unnecessarily or duplicate existing evaluations. It is the responsibility of the LEA to conduct any further evaluations or assessments in order to determine eligibility for Part B services. The LEA must ensure that a full and individual initial evaluation has been conducted before determining the child's eligibility for special education.

The LEA must obtain written parental consent for release of Part C information and include the Part C evaluations being used to determine eligibility on the Part B Parental Prior Written Notice form. The initial evaluation must be conducted within 25 school days of parent consent.

18. Why is the BDI-2 administered? (Battelle Developmental Inventory-2)

Discussion:

In 2005, the Office of Special Education Programs (OSEP) began requiring State Early Intervention and Preschool Special Education programs to report on child and family outcomes. States are required to report on the percent of infants and toddlers with Individualized Family Service Plans (IFSPs) or preschool children with Individualized Education Plans (IEPs) who demonstrate improved:

1. Positive social-emotional skills (including social relationships);
2. Acquisition and use of knowledge and skills (including early language/communication [and early literacy]); and
3. Use of appropriate behaviors to meet their needs.

The SD Department of Education Special Education programs determined that the BDI-2 meets the OSEP requirements of reporting child outcomes. Therefore, all school districts must administer the BDI-2 and report results to the SEA using the online data manager.

19. What is the difference when using the BDI2 for eligibility and/or progress monitoring?

Discussion:

The BDI-2 serves two purposes. It can be used to determine eligibility and for reporting early childhood progress. "It can kill two birds with one stone!" A district may qualify a student by using different test instruments, but once eligibility has been determined, the district must also test the student using the BDI-2 in order to report for progress monitoring. Again, the BDI-2 is given to all students who are receiving special education services ages 3-5 in order to meet the state's reporting requirements.

20. If a student's 3rd birthday occurs in the summer or early fall, how soon can an IEP be developed?

Discussion:

The LEA may evaluate a student 6 months prior to the student turning 3 for Part B eligibility. LEAs must then develop an IEP within 30 calendar days after the evaluation timeline ends. If the IEP is developed prior to the students 3rd birthdate, services may not begin until the 3rd birthdate.

NOTE: The BDI-2 must be given within 90 days of the student turning 3 for progress monitoring.

21. Who should attend the IEP meeting?

Discussion:

LEAs must invite the parent(s), evaluators who can interpret results, Part C service coordinator with parent permission, the student, LEA district representative, and classroom teacher. Outside agencies involved in the student's education may also be invited with parent permission.

22. When should services begin for a child whose third birthday occurs during the summer?

Discussion:

If the child's third birthday occurs during the summer, the IEP team must consider the date when services under the IEP will begin. The IEP team must determine if extended school year (ESY) services are necessary for the provision of FAPE to the child. If the child does not need ESY services, the date of initiation of services may be the beginning of the school year and the IEP is considered "implemented" by the child's third birthday for the purpose of Indicator B-12.

If an LEA knows that a child served in Part C and referred to Part B will turn age three during the summer, and that appropriate LEA personnel will not be available to conduct evaluations and hold IEP meetings during the summer, the LEA must conduct the initial evaluation under Part B, determine the child's eligibility, and hold an IEP meeting before the end of the school year in order to ensure that, if appropriate, an IEP is developed and implemented by the child's third birthday.

Federal Regulations

34 CFR § 300.301 Initial evaluations. (a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§ 300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.

b) Request for initial evaluation. Consistent with the consent requirements in § 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

(c) Procedures for initial evaluation. The initial evaluation—

(1)(i) Must be conducted within 25 school days of receiving parental consent for the evaluation; and

(2) Must consist of procedures—

(i) To determine if the child is a child with a disability under § 300.8; and

(ii) To determine the educational needs of the child.

34 CFR § 300.304(b) Evaluation procedures...the public agency must—

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—

(i) Whether the child is a child with a disability under § 300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

- (2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and
- (3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

34 CFR § 300.305 Additional Requirements for Evaluations and Reevaluations

- (a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—
 - (1) Review existing evaluation data on the child, including-
 - (i) Evaluations and information provided by the parents of the child;
 - (ii) Current classroom-based, local, or State assessments, and classroom-based observations; and
 - (iii) Observations by teachers and related services providers; and
 - (2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine--(i)(A) Whether the child is a child with a disability, as defined in Sec. 300.8, and the educational needs of the child;

34CFR § 300.502 Independent Educational Evaluation. (a) General.

- (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.
- (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

For the purposes of this subpart—(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with § 300.103

34 CFR §300.306 Determination of eligibility.

(a) General. Upon completion of the administration of assessments and other evaluation measures—

- (1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in §300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and
- (2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.....

(c) Procedures for determining eligibility and educational need.

- (1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under §300.8, and the educational needs of the child, each public agency must—
 - (i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
 - (ii) Ensure that information obtained from all of these sources is documented and carefully

considered.

If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.320 through 300.324.

Additional Information (OSEP Letter to Eleanor Hirsch, August 2005) located at <http://www.ed.gov/policy/speced/guid/idea/letters/2005-3/hirsh080905eval3q2005.pdf>—“OSEP has encouraged States to use results from child assessments completed under Part C when determining eligibility for Part B. Under 34 CFR 300.571 (which applies to Part C through 34 CFR §303.402), parental consent must be obtained before personally identifiable information from evaluation and assessment records under Part C is disclosed by the lead agency to the local educational agency (LEA) (subject to the exceptions identified in 34 CFR §300.571 and 34 CFR Part 99). As noted above, section 614(c)(1) of IDEA permits an LEA to review existing data regarding a child with a disability, including a child who has been referred by the lead agency, as part of an initial evaluation. However, the statutory language does not specifically require the LEA to use Part C assessment information to determine eligibility for preschool special education and related services under Part B. Parents may make this information available to the Part B eligibility group for their consideration.”

The reference to Part 300 regulations in the above OSEP letter to Hirsch is to 1999 provisions and not 2006 regulations.

34 CFR §300.106 Extended school year services.

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Sec. Sec. 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not--(i) Limit extended school year services to particular categories of disability; or (ii) Unilaterally limit the type, amount, or duration of those services. (b) Definition. As used in this section, the term extended school year services means special education and related services that--(1) Are provided to a child with a disability--

(i) Beyond the normal school year of the public agency; (ii) In accordance with the child's IEP; and (iii) At no cost to the parents of the child; and (2) Meet the standards of the SEA.

State Rule

24:05:25:05. Eligibility and placement procedures. In interpreting evaluation data for the purpose of determining eligibility and determining the educational needs of the child, in making placement decisions, including decisions regarding preschool children, each school district shall do the following:

(1) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;

- (2) Ensure that information obtained from all of these sources is documented and carefully considered;
- (3) Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options;
- (4) Ensure that the placement decision is made in conformity with the least restrictive environment rules in chapter 24:05:28; and
- (5) Ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

If a determination is made that a child is disabled and needs special education and related services, an individual education program must be developed for the child in accordance with this article.

24:05:30:03. Independent educational evaluation. A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the district subject to the conditions in this section.

Each district shall provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the district criteria applicable for independent educational evaluations specified in this section.

If a parent requests an independent educational evaluation, the district may ask for the parent's reason why he or she objects to the public evaluation. However, the explanation by the parent may not be required and the district may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

If the parent requests an independent educational evaluation at public expense, the district must, without unnecessary delay, either file a due process complaint to request a hearing under this chapter to show that its evaluation is appropriate, or ensure that an independent educational evaluation is provided at public expense unless the district demonstrates in a hearing that the evaluation obtained by the parent did not meet district criteria. If the district files a due process complaint to request a hearing under this chapter and the final decision is that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

A parent is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.

If the parent obtains an independent educational evaluation at public expense or shares with the district an evaluation obtained at private expense, the results of the evaluation must be considered by the district, if it meets district criteria, in any decision made with respect to the provision of a free appropriate public education to the child and may be presented by any party as evidence at a hearing under this chapter regarding that child.

If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation must be at public expense. If an independent evaluation is made at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria which the district uses when it initiates an evaluation to the extent those criteria are consistent with the parent's right to an independent educational evaluation. Each district shall provide to parents, on request, information about where an independent educational evaluation may be obtained.

For the purposes of this section, the term, independent education evaluation, means an evaluation conducted by a qualified examiner who is not employed by the district responsible for the education of the child in question. For purposes of this section, the term, public expense, means that the district either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with §§ 24:05:14:01 to 24:05:14:01.05, inclusive.

Except for the criteria described in this section, a district may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

24:05:27:01.06. Initial IEP team meeting for infants and toddlers. If a student was previously served under part C, an invitation to the initial IEP team meeting shall, at the request of the parent, be sent to the part C service coordinator or other representatives of the part C system to assist with the smooth transition of services.

24:05:25:26. Extended school year authorized. The district shall provide extended school year services to eligible children if the IEP team determines on an individual basis that such services are necessary for the provision of FAPE.

An IEP pursuant to chapter 24:05:27 shall be developed and implemented by the IEP team that addresses the need for extended school year services. The IEP team shall determine the length of the school day and duration of extended school year services based on the individual child's needs.

In implementing the requirements of this section, a district may not:

- (1) Limit extended school year services to particular categories of disability;
- (2) Unilaterally limit the type, amount, or duration of those services; or
- (3) Apply a regression/recoupment criterion to children in need of prolonged assistance.

As used in this section, the term, extended school year services, means special education and related services that meet the standards of the state and are provided to a student with a disability beyond the normal school year of the district, in accordance with the student's IEP and at no cost to the parents of the student.

APPENDICIES

Contents

1. South Dakota Part C Transition Flowchart
2. Early Childhood Transition from Part C to Part B
Timeline Requirements
3. Transition Timeline Checklist (Planning Ahead)
4. Terms and Definitions

SERVICE COORDINATOR FLOWCHART OF DUTIES-Transition For Children Ages Birth to Three – Part C/Prolonged Assistance



Transition Notice:

The school district must be notified in written form that the child will shortly reach the age of 3.



Transition Conference/IFSP Meeting:

A Transition Conference/IFSP Meeting is held with parents, providers and school representative to review the IFSP and discuss any services that the child may receive after the age of 3. The meeting must be held at least 90 days (and at the discretion of all parties, not more than 9 months) before the child is eligible for preschool services.



Transition Booklet:

A guide for parents and providers called “Making Connections” is given to families either at a previous meeting or mailed out before the transition conference. The guide specifically addresses the process that occurs when the child and family prepare to move out of the Birth to Three Program and into a new setting.



Part B Evaluation:

The school district is responsible to get consent for the Part B Evaluation. The school district is responsible to schedule the evaluation with the family, complete the evaluation and compile the report. The eligibility determination for Part B doesn't affect Part C eligibility, unless the team declares the intention and includes language to that effect on the Prior Notice.



Part B Eligibility Meeting:

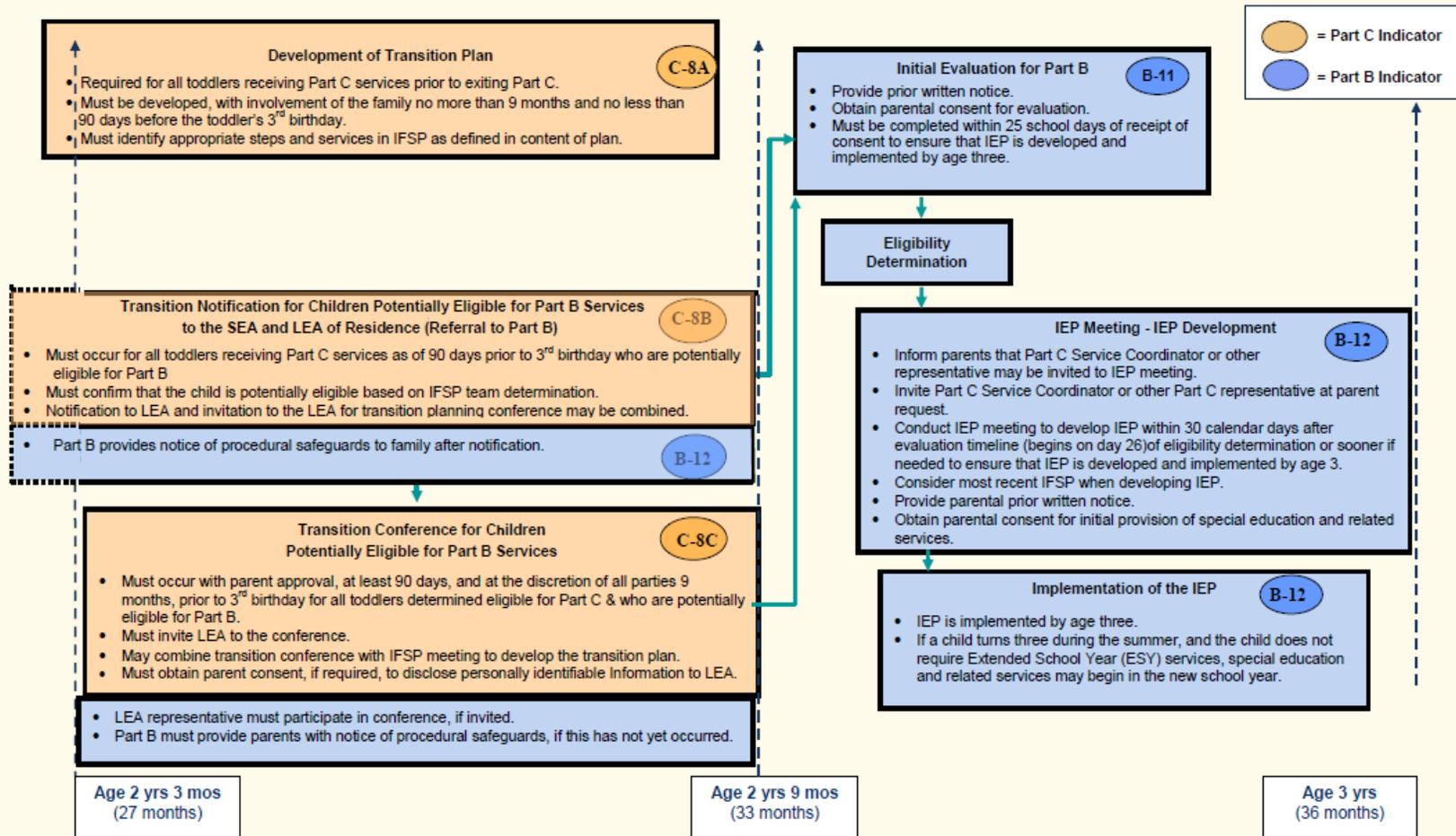
The School district schedules the IEP meeting with parents and team. A Prior Notice to meeting is completed by the school district. At the request of the parent, the School district is to invite the Service Coordinator to the meeting. The Service Coordinator will attend when possible.



IEP Meeting:

A meeting is held with parents, evaluators, Service Coordinator, and school representative. The evaluation is shared with parents. Eligibility for Part B services is determined. The school writes an IEP if the child qualifies. The IEP is dated to begin on the child's third birthday. Parents are given other information on programs in the community if child does not qualify. **Services continue on an IFSP until the child turns 3.**

South Dakota Early Childhood Transition from Part C to Part B Timeline Requirements



Developed by NECTAC in collaboration with the RRCP General Supervision Priority Team and the Office of Special Education Programs (OSEP) - September 18, 2012

Transition Timelines Checklist

(Use this checklist to help you keep track of what steps have taken place)

Planning ahead:

- ✓ Discussion has been held with parents regarding future placements and other matters relating to the child's transition;
- ✓ The local education agency has been notified in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of IDEA, as determined in accordance with state law, of the need for transitional planning;
- ✓ With the approval of the family, a conference between the IFSP team, family, and local educational agency has been scheduled or held at least 90 days and at the discretion of the parties, and not more than nine months before the child's third birthday, under Part B of Individuals with Disabilities Education Act, in accordance with state law.
- ✓ The local school district has provided the family with information on the eligibility and evaluation requirements under Part B of Individuals with Disabilities Education Act, including the parent's and district's rights regarding procedural safeguards. Information may be transmitted upon consent of the parent or guardian.
- ✓ The IEP team has reviewed the child's program options for the period beginning on the day the child turns three and running through the remainder of the school year; and prepared the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting.

Transition Conference:

- ✓ A description of the actions proposed by the LEA and each evaluation or assessment to be used
- ✓ A statement regarding Part B Parent and Students rights and a copy of the Part B Procedural Safeguards.
- ✓ You may review Prior Notice of Consent to Evaluate
- ✓ Provide parents with a copy of procedural safeguards
- ✓ Review current evaluation and assessments and determine if additional assessments will be needed
- ✓ Determine next steps (including visits to the possible settings)
- ✓ Part C Service Coordinator completes IFSP transition page
- ✓ Parent's rights in special education are explained.
- ✓ Options for early childhood special education and other appropriate services are discussed.
- ✓ A transition time line is developed.
- ✓ A transition plan is written into the IFSP.

Terms and Definitions

Many terms have different meanings across States and programs. The following, to the maximum degree possible, follow federal definitions.

Americans with Disabilities Act (ADA): A law that took effect in 1992 that defines “disability” and prohibits discrimination by employers, by any facility open to the general public and by State and local public agencies that provide such services as transportation (public Law 101-336).

Caregivers: The people who spend significant amounts of time with the child, such as parents, childcare providers and teachers.

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.

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.

Due Process: In special education, due process refers to a process for resolving a dispute between the family and the public school district related to the identification, evaluation, educational placement or Free Appropriate Public Education of a child with disabilities.

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

Free and 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 three to five 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.

Inclusion: Inclusion, as a value, supports the right of all children, regardless of abilities, to participate actively in natural settings and classroom programs within their communities and schools. Inclusion means full and successful access to health, social, educational and other support services that promote full participation in family and community life and in education.

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 three to 21. Part C outlines services for children birth to age three.

Individualized Education Program (IEP): Written statements of a child's current level of educational performance and an individualized plan including: the goals; specific services to be received; the standards and timelines for evaluation of progress; and the amount and degree to which the child will participate with typically developing. It is required by the Individuals with Disabilities Education Improvement Act (IDEA) for all children eligible for special education and related services.

IEP Team: The IEP is made up of the child's parents, special education teacher, a general education teacher and a representative of the LEA. 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): The written document that defines the early intervention services provided to the child (age birth to three) and family. The program is designed meet the needs of the child and the family and is based on family-identified priorities.

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); LEA representative at the initial eligibility determination, at the transition conference, 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.

Local Education Agency (LEA): A public school district operating in accordance with statutes, regulations, and policies of the State of South Dakota.

Natural Environment: The natural or everyday settings for the child. These are places where the child would be if they did not have a special developmental concern. It is where all children would be (for example, home, childcare, parks, etc.)

Parent: Includes biological or adoptive parents, foster parents and surrogate parents; guardians authorized to make educational decisions for the child, but not the state if child is a ward of the state; an individual acting in the place of a biological or adoptive parent, including grandparent, stepparent, or other relative with whom the child lives or individual who is legally responsible for the child welfare.

Part B Case Manager: Local school policies and procedures identify the case manager who arranges and convenes IEP meetings, maintains contact with parents, gathers information from team members, and prepares and distributes the finalized document. Typically, a special education provider is assigned case management responsibility. However, other persons may fulfill that role, including building administrators, counselors, general education personnel, or related services providers.

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.

Service Coordinator: Each eligible child must be provided with a service coordinator who is responsible for coordinating all services across agency lines, and serving as the single point of contact in helping parents to obtain the services and assistance they

need. Service coordinators must be persons who have demonstrated knowledge and understanding about the following: (1) infants and toddlers who are eligible under this article; (2) applicable state and federal laws; (3) the nature and scope of services available under South Dakota’s early intervention program; and (4) the payment system for services in the state.

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.

State Education Agency (SEA): The SD Department of Education or other agency responsible for the State supervision of public elementary and secondary schools.

Supplementary Aides and Services: The term means aids, services and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

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.