



OSPI | Special Education

DEL Interagency Agreement Number 18-1034  
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Title: Interagency Agreement on IDEA Part C to B Transition

INTERAGENCY AGREEMENT  
BETWEEN  
THE DEPARTMENT OF EARLY LEARNING AND  
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION

1. DEFINITIONS

1.16 Potentially Eligible means toddlers eligible for Part C services that may be eligible for special education and related services under IDEA Part B (and further defined in Attachment 1, incorporated by reference).

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## ATTACHMENT 1

### Washington's Definition of "Potentially Eligible" for Part B Services

#### I. Introduction

*IDEA §637(a)(9)(A)(ii)(II)* Part C regulations *34 CFR §303.209(b)* requires the Part C State Lead Agency (SLA) to notify the State Education Agency (SEA) and the Local Education Agency (LEA) where the toddler with a disability resides that the toddler, who may be eligible for Part B, shall shortly reach the age of eligibility for Part B services (i.e., 3 years old). Under State Performance Plan/Annual Performance Report Indicator C-8B, the Part C SLA shall report required LEA notification responsibility **only** for those toddlers with disabilities who are potentially eligible for services under Part B (i.e., those toddlers referred to Part B). Office of Special Education Programs (OSEP) Early Childhood Transition FAQs: SPP/APR Indicators C-8 and B-12 issued December 1, 2009 (question #5), clarifies that "potentially eligible" for Part B has the same meaning as toddlers who may be eligible for Part B under *IDEA §637(a)(9)(A)(ii)(II)*.

Part C and Part B program staff worked collaboratively to define "potentially eligible" for Part B services in Washington State. Providing notification to the SEA and appropriate LEA, of toddlers who are potentially eligible for Part B, serves as an initial referral to the LEA for Part B eligibility determination, which requires the LEA to provide notice of procedural safeguards and information on Part B to the toddler's parents. Washington State's definition of potentially eligible is based on a broad framework and includes Part C toddlers who shall be referred to Part B for initial evaluation.

#### II. Definition of Potentially Eligible for Part B

The definition of potentially eligible is based on each individual toddler's current eligibility status based upon a developmental delay and/or diagnosed physical or mental condition (including the use of informed clinical opinion).

The following summarizes the state's definition of "Potentially Eligible" for Part B services.

- A. A toddler is potentially eligible and should be referred to the LEA for special education evaluation if they meet the following conditions (see Table 2):
1. Toddler is over age 2 years and 3 months and is eligible for Part C services under the category of:
    - a) "Developmental Delay" (DD) and one or more of the following conditions are present:
      - (1) Toddler demonstrates 2 standard deviations below the mean in one or more areas of development or 1.5 standard deviations in two or more areas of development; WAC 392-172A-01035 (2)(d)(i) (NOTE: This does not require the completion of an evaluation.) or
      - (2) Toddler continues to display moderate or significant delay in any developmental areas; or
      - (3) Parent or IFSP team wants the toddler to be referred to Part B.
    - b) The toddler is eligible for Part C services under the category of "Diagnosed Physical or Mental Condition" and if any of the following conditions are present:
      - (1) The toddler has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and
      - (2) The toddler exhibits at least mild delays in any developmental area; or
      - (3) Parent or team wants the toddler to be referred to Part B.
  - B. A toddler is NOT potentially eligible and should NOT be referred to the LEA for special education evaluation (through LEA notification), unless the parent or team believe a referral to Part B is needed as a result of an IFSP team review, if they meet the following conditions (see Table 2):
    1. Toddler is over age 2 years and 3 months and is eligible for Part C services, and
      - a) The toddler is eligible for Part C services under the category of "Developmental Delay" (DD), if any of the following are present unless the team or the parent(s) believes a referral is needed:

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- (1) Toddler demonstrates 1.5 standard deviations in one area of development
  - (2) Toddler has only mild delays in any developmental area
  - (3) Toddler is currently eligible as a result of Informed Clinical Opinion only
- b) The toddler is eligible for Part C services under the category of "Diagnosed Physical or Mental Condition", if any of the following are present unless the team or the parent(s) believes a referral is needed:
- (1) Toddler is exhibiting skills that are age appropriate
  - (2) Toddler is currently eligible as a result of Informed Clinical Opinion only.

To determine if the toddler is potentially eligible for Part B preschool special education services:

- A. The IFSP team is responsible for reviewing each toddler's most recent assessment and progress monitoring data, as well as relevant medical information, at an IFSP meeting around the toddler's second birthday.<sup>1</sup>
- B. The SLA is responsible for providing notification to the SEA and appropriate LEA where the toddler resides not fewer than 90 days before a toddler's third birthday.
  1. For toddlers referred to Part C more than 45 days but less than 90 days, notification to the SEA and appropriate LEA of potentially eligible toddlers should be provided as soon as eligibility for Part C is determined.
  2. If a toddler is referred to Part C fewer than 45 days before the toddler's third birthday, Part C, with written parental consent, refers the toddler to the SEA and LEA where the toddler resides. According to the Part C regulations 34 CFR §303.209(b)(1)(iii), Part C is not required to conduct an evaluation, assessment, or an initial IFSP meeting when a toddler is referred to Part C fewer than 45 days before the toddler's third birthday.

Table 1 outlines the Part C and Part B eligibility definition and Table 2, summarizes Washington's definition of potentially eligible and the required actions related to the provision of the notification to the SEA and appropriate LEA (referral to Part B).

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<sup>1</sup> Reviewing each child's most recent assessment and progress monitoring data and relevant medical information to determine if the child is potentially eligible for Part B preschool special education services does not mean that a standardized test should be used to re-determine the child's eligibility for Part C.

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**Table 1: Washington Part C and Part B Eligibility Definitions**

**Part B Eligibility Definition of Developmental Delay WAC 392-172A-01035(2)(d)(i)**

Developmental delay means a student three through eight who is experiencing developmental delays that adversely affect the student's educational performance in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development and who demonstrates a delay on a standardized norm referenced test, with a test-retest or split-half reliability of .80 that is at least:

- 1) Two standard deviations below the mean in one or more of the five developmental areas; or
- 2) One and one-half standard deviations below the mean in two or more of the five developmental areas

A student is eligible for special education in another category if he or she:





- 1) Meets eligibility criteria;
- 2) Has an adverse educational impact as a result of the disability; and
- 3) Needs specially designed instruction

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Washington's Definition of "Potentially Eligible" for Part B Services

Table 2: LEA Notification of Potentially Eligible (Referral) Required Actions

If toddler is age two and is eligible for Part C services in accordance with:			
Developmental Delay (DD)		Diagnosed Physical or Mental Condition	
<p>If any of the following are present:</p> <p>1. Toddler demonstrates 2.0 standard deviations in one area of development or 1.5 standard deviations in two or more areas of development (NOTE: This does not require the completion of a reevaluation)</p> <p>OR</p> <p>2. Toddler continues to display moderate or significant delay in the following developmental areas:</p> <p>Cognitive</p> <ul style="list-style-type: none"> <li>• Physical (vision, hearing, fine or gross motor)</li> <li>• Communication</li> <li>• Social or Emotional</li> <li>• Adaptive</li> </ul> <p>OR</p> <p>3. Meets neither of the above criteria, but parent or team believe a referral to Part B is needed.</p>	<p>If any of the following are present:</p> <p>1. Toddler demonstrates 1.5 standard deviations in one area of development</p> <p>OR</p> <p>2. Toddler has only mild delays in any developmental area</p> <p>OR</p> <p>3. Toddler is currently eligible as a result of Informed Clinical Opinion only</p>	<p>If the following are present:</p> <p>1. The toddler has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay in any of the following areas:</p> <ul style="list-style-type: none"> <li>• Chromosomal abnormalities associated with intellectual disabilities, such as Down syndrome</li> <li>• Congenital central nervous system birth defects or syndromes, such as Myelomeningocele, Fetal Alcohol Syndrome; or Cornelia de Lange syndrome</li> <li>• Deaf, blind, or deaf-blind</li> <li>• Established central nervous system deficits resulting from hypoxia, trauma, or infection</li> <li>• Cerebral Palsy</li> <li>• Health impairments, such as autism, epilepsy, neurological impairment, or other chronic, acute, or degenerative health problems</li> <li>• Orthopedically impaired, which means impairments of the normal function of muscles, joints, or bones due to congenital anomaly, disease, or permanent injury</li> <li>• Microcephaly</li> <li>• Vision Impairment</li> <li>• Hearing Impairment</li> </ul> <p>AND</p> <p>2. The toddler is exhibiting a mild delay in any developmental area</p> <p>OR</p> <p>3. The parent(s) or team believes a referral to Part B is needed</p>	<p>If the following are present:</p> <p>1. The toddler has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay in any of the following areas:</p> <ul style="list-style-type: none"> <li>• Chromosomal abnormalities associated with intellectual disabilities, such as Down syndrome</li> <li>• Congenital central nervous system birth defects or syndromes, such as Myelomeningocele, Fetal Alcohol Syndrome; or Cornelia de Lange syndrome</li> <li>• Deaf, blind, or deaf-blind</li> <li>• Established central nervous system deficits resulting from hypoxia, trauma, or infection</li> <li>• Cerebral Palsy</li> <li>• Health impairments, such as autism, epilepsy, neurological impairment, or other chronic, acute, or degenerative health problems</li> <li>• Orthopedically impaired, which means impairments of the normal function of muscles, joints, or bones due to congenital anomaly, disease, or permanent injury</li> <li>• Microcephaly</li> <li>• Vision Impairment</li> <li>• Hearing Impairment</li> </ul> <p>AND</p> <p>2. The toddler is exhibiting that skills are age appropriate</p> <p>OR</p> <p>3. Toddler is currently eligible as a result of Informed Clinical Opinion</p>
 <b>Refer to Part B</b>	 <b>Do Not Refer Unless The Parent(s) or Team Believe Referral is Needed</b>	 <b>Refer to Part B</b>	 <b>Do Not Refer Unless The Parent(s) or Team Believe Referral is Needed</b>