

# New Mexico Guidance: Children Transitioning from IDEA Part C to Part B

Individuals with Disabilities Education Act

New Mexico Public Education Department  
New Mexico Department of Health

**Applicable June 2011–June 30, 2012**



**New Mexico Guidance -  
Children Transitioning from IDEA Part C to Part B  
(August 2011)**

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## MEMORANDUM

July 18, 2011

**TO:** Family Infant Toddler Program, Part C Providers  
District Special Education Directors  
Regional Education Coordinators Directors  
Charter School Special Education Coordinators  
Transition Team Coaches

**FROM:** Denise Koscielniak, Special Education Director, Special Education Bureau  
Andy Gomm, Director, Family Infant Toddler (FIT) Program

**RE: PART C TO PART B TRANSITION REVISED GUIDANCE DOCUMENT**

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The Special Education Bureau of the New Mexico Public Education Department and the New Mexico Department of Health Family Infant Toddler (FIT) Program are pleased to provide you with the revised version of the *New Mexico Guidance: Children Transitioning from the Individuals with Disabilities Education Act (IDEA) Part C to IDEA Part B*, a technical assistance document.

This revised guidance document is a result of the collaboration between the New Mexico Public Education Department, the New Mexico Department of Health, the Mountain Plains Regional Resource Center, the National Early Childhood Technical Assistance Center, and the New Mexico Transition Steering Committee.

The intent of the manual is to provide relevant information for early childhood providers (Part C and Part B) so they can assist and support families in navigating from one service system to the next. The transition process requires the collaboration of all parties involved in the transition. This will help to ensure that families are fully informed of the process as well as their rights throughout the process. A clear understanding of the transition process and parental rights will contribute to a smooth and effective IDEA Part C to Part B transition.

The technical assistance document provides clarification on the roles and responsibilities of Part C Providers and Part B staff including notification and referral, planning for the transition conference, the transition conference, Initial Comprehensive Evaluation for Part B, eligibility determination requirements, and the initial Individualized Education Plan (IEP).

If you have any questions regarding the transition from Part C to Part B guidance, please contact the Special Education Bureau at (505) 827-1457 or contact the FIT Program at (505) 476-8974.



## **PURPOSE**

The purpose of this guidance document is to provide clarifying information on steps in the transition process that relate to initial evaluation and eligibility determination practices for the transition of young children and their families from Part C Early Intervention into IDEA Part B special education preschool services.

This guidance is meant to assist the New Mexico Family Infant Toddler (FIT) Program and New Mexico Local Educational Agencies (LEAs) to facilitate a smooth and effective transition for eligible families and children.

New Mexico will measure 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) for the PED and FIT agencies.

## **PART C AND PART B 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, 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 60 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.

## **FORMAT: QUESTIONS, DISCUSSION, AND REGULATIONS**

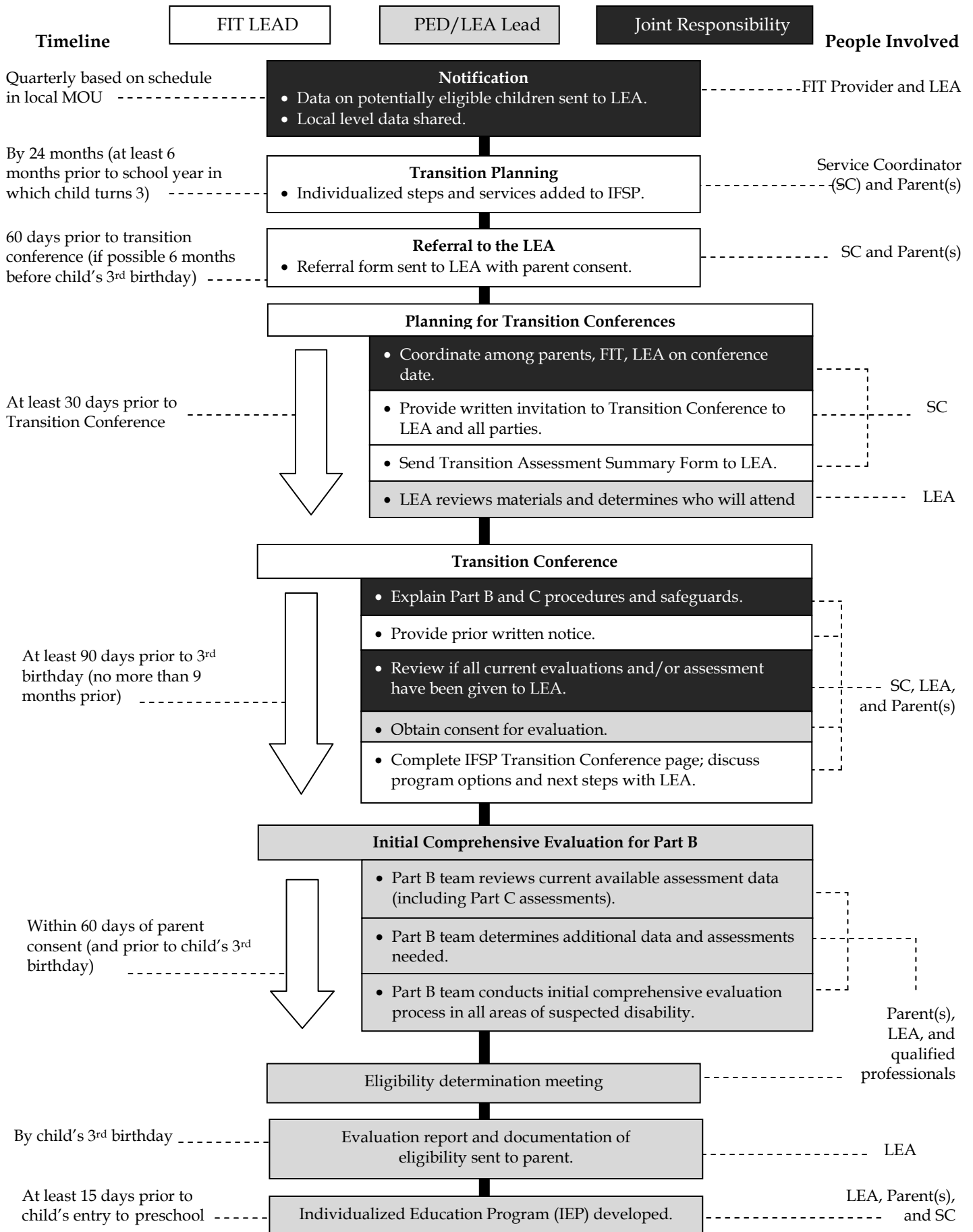
Each section in this manual is presented in Question and Answer format followed by discussion and federal and state regulatory references. The discussion clarifies the regulatory and rule references as needed and provides additional information about evidence-based and field-tested practices that have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

**Family Choice Option Update**

You will see text boxes such as this throughout the document. Information contained in these boxes pertains to the Family Choice Option that was established through state statute allowing parents of an eligible child who turns 3 during the public school year to have the option of 1) having their child complete the remainder of the school year in the FIT program or 2) elect to enroll their child in the school's preschool special education service from the beginning of that public school year.

This option will be available for children until June 30, 2012. As of July 1, 2012, this option will no longer be available due to a change in NM Statute made during the 2011 Legislative Session (Senate Bill 330). After July 1, 2012, children will be required to transition out of the FIT program by the end of the month in which they turn 3.

# TIMELINE OF STEPS FOR EARLY CHILDHOOD TRANSITION IN NEW MEXICO



## Notification

- Data on potentially eligible children sent to LEA.
- Local level data shared.

### 1) *What is the requirement for notification of the LEA?*

#### Discussion

Notification is legally required in accordance with IDEA Part C Sec. 303.148 (b) (1), which states that the early intervention provider will “notify the educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act.” (See Appendix A – State Memorandum of Understanding and Appendix B – Data Sharing Memorandum.)

The FIT Program service provider agency must notify the LEA of children who reside in the LEA’s educational jurisdiction and who are potentially eligible for Part B services. For this purpose, potentially eligible is considered to be those children eligible under the Part C’s “established condition” or “developmental delay” category. The list should include children who will turn three within the next 12 months.<sup>1</sup>

The notification must include the child’s first name, last name, middle initial, date of birth, the LEA in which the child resides, and contact information for 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 that will not permit personal identification of Part C children and their parents to anyone other than the LEA. The FIT provider must also maintain in the child’s file a record that there has been a disclosure to the LEA.

This notification will be provided to the LEA at least quarterly, in accordance with the specific dates agreed upon and documented in their local community transition team’s MOU.

This notification provides the LEA with a list of children who will potentially transition to their school district within the next year in order for the LEA to project future allocation of resources. The list can also help the LEA and the local FIT provider plan for upcoming transition conferences throughout the year. The LEA should work with the FIT service coordinator, who will schedule the transition conferences. The LEA should not contact the family directly at this early stage of the transition process.

#### 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.

**OSEP Letter to Elder (2004)** (<http://www.ed.gov/policy/speced/guid/idea/letters/2004-1/elder021104ifsp1q2004.pdf>) – If an infant or toddler is determined eligible under Part C, that

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<sup>1</sup> The list should be cumulative (i.e., each quarter, children turning three within the next 12 months will be added to the list).

infant and toddler with a disability and the family receive the early intervention services identified in the child's IFSP under Part C .At least 90 days (or up to six months depending on the State) prior to a toddler reaching the age of three (the age of initial eligibility for services under Part B), the Part C lead agency must notify the LEA for the area where the child resides that the child will shortly reach the age of eligibility for preschool services under Part B .

Under the IDEA, in States where the SEA, through an interagency agreement or other mechanism, has included the lead agency's participation in the SEA's child find activities, the SEA, with the lead agency, can establish procedures that allow the lead agency to refer a child to the SEA without prior parent consent in order to meet the SEA's child find responsibilities under 34 CFR §300.125 . The specific information that can be included in the referral without prior parental consent by the lead agency for these limited child find purposes are the child's name, date of birth, and sufficient parent contact information (as determined by the SEA) to the SEA and/or LEA so that the SEA and LEA can meet their respective child find responsibilities

## State Rules

**7.30.8.13 TRANSITION (B)** In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.

**6.31.2.11 (A) (5) (a)** Each LEA shall survey Part C programs within its **educational** jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.

### Transition Planning

- Individualized steps and services added to IFSP.

## 2) *What is the role of the service coordinator in transition planning with the family?*

### Discussion

**The following is applicable for children whose third birthday is before July 1, 2012:**

For children receiving services through the FIT program whose third birthday is before July 1, 2012, the Service Coordinator must begin transition planning by 24 months of age but at least 6 months prior to the beginning of the school year in which the child turns three. The Service Coordinator fully informs the family of their options regarding when their child may transition, in accordance with state statute.

For all children receiving FIT services, by 24 months of age but at least 6 months prior to the beginning of the school year in which the child turns three, the service coordinator meets with the family to identify and document the specific steps and actions that will support the child and family through the transition process. These individualized steps and actions are documented on the transition plan and are included in the IFSP.

The Service Coordinator fully informs the family of their options regarding when their child may transition, in accordance with state statute. The Service Coordinator also ensures that the family is fully aware of the array of service and program options available including home, Part B

preschool special education, Head Start, childcare centers, private preschools, or other community-based settings, etc. The Service Coordinator will assist the family to visit any of these settings.

The service coordinator shall discuss options for inclusive settings for preschool in order for the child to be with typically developing peers. The discussion should include addressing the parents' 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.

### **Federal Regulations**

As part of the Part C requirements for specific service coordination activities under **34 CFR §303.23 Service Coordination**, activities include (7) Facilitating the development of a transition plan to preschool services, if appropriate.

#### **34 CFR. §303.344**

(h) **Content of an IFSP** requires Part C as part of transition planning to hold discussions with the family. (i) Discussions with, and training of, parents 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.

### **3) *What is the responsibility of LEA staff during early transition planning process?***

#### **Discussion**

**LEA staff are not required to participate in the meetings between FIT providers and the family members preceding the Transition Conference.** LEAs are encouraged to routinely communicate with FIT providers about public school programs, activities, and resources. LEAs should coordinate with FIT providers to allow parents to learn more about services available through school districts and support parent and family involvement in the transition planning process. LEA staff are encouraged to be responsive to requests by FIT providers and families for information and opportunities to meet with school personnel, visit school programs and tour facilities.

#### **State Rules**

##### **6.31.2.11(A)(4)**

Each public agency shall develop and implement appropriate policies and procedures to ensure a smooth and effective transition from Part C to Part B programs for preschool children with disabilities within the agency's educational jurisdiction, in compliance with 34 CFR Sec. 300.124. Each LEA and other public agencies as appropriate shall make reasonable efforts to establish productive working relations with local Part C programs and when given reasonable notice shall participate in the transition planning conferences arranged by local Part C providers.

##### **6.31.2.11(A)(5)(b)**

Each LEA shall promote parent and family involvement in transition planning with Part C programs, community programs and related services providers at least six months before the child is eligible to enter the LEA's Part B preschool program.

### Referral to the LEA

- Referral form sent to LEA with parent consent.

#### 4) *How is a child referred from FIT to the LEA?*

##### Discussion

The Service Coordinator, with parental permission, will complete and submit the State Transition Referral Form to the LEA. Upon receipt of the referral form, the LEA staff is required to record the date of the written referral into the STARS database

The **Transition Referral Form** (see Appendix C – FIT Transition Referral Form) should be sent at least 60 days prior to the Transition Conference, and if possible at least six months prior to the child's third birthday for all children eligible for Part C under "Established Condition" or "Developmental Delay." Children eligible under the "at risk categories" may be referred if they are showing greater concern at the time of referral.

#### 5) *What happens if a family refuses to be referred to the LEA?*

##### Discussion

If a family whose child is potentially eligible for IDEA B (i.e., the child is eligible for Part C under the "developmental delay" or "established condition" categories) refuses to be referred to the LEA, the parent is then choosing not to continue with services through the Individuals with Disabilities Education Act (IDEA). FIT services will end at the month in which the child turns three.

Therefore, if a parent refuses for the referral to be made to Part B, the Service Coordinator should provide the parent(s) with prior written notice that Part C services will end at the end of the month in which the child turns three. The service coordinator will also provide the family a copy of their procedural safeguards at this time.

#### 6) *What happens if a family who previously refused to be referred to the LEA or refused to sign consent for evaluation has changed their mind?*

##### Discussion

**The following is applicable for children whose third birthday is before July 1, 2012:**

If the child is still under the age of three, the family can change their mind and apply for the Extended Part C/Parent Choice Option. In this case, the service coordinator will send the referral to the LEA along with the Transition Assessment Summary Form and will support the family to make contact with the LEA in order for the family to sign Consent for Evaluation and begin the process to determine eligibility under Part B. If the child has already turned three and the child and family are no longer receiving early intervention services through the FIT Program, the family cannot change their mind to choose the Extended Part C/Parent Choice Option.

### **After July 1, 2012**

If the child is still under the age of three, the family can change their mind with the understanding that the FIT services will end at the end of the month in which the child turns three. The service coordinator will send the referral to the LEA along with the Transition Assessment Summary Form and will support the family to make contact with the LEA in order for the family to sign the Consent for Evaluation and begin the process to determine eligibility under Part B.

### **7) What should occur with late referrals (i.e., children referred to the FIT program within 90 days of their 3rd birthday)?**

#### **Discussion**

If the child is referred to the FIT Program **fewer than 45 days** prior to the child's third birthday, an evaluation by FIT will not be conducted. The service coordinator can inform the parents of options for preschool and assist them with applying for these options.

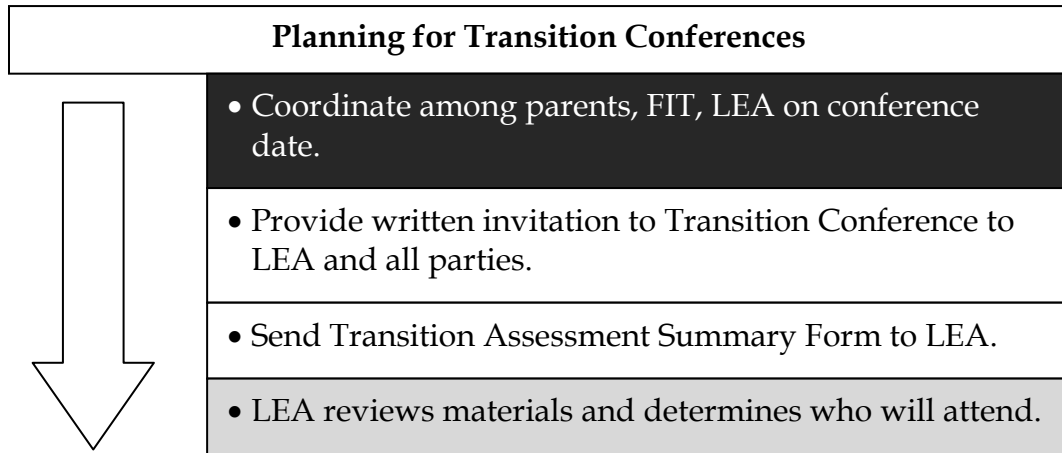
If the child is referred to the FIT Program **between 45 and 90 days** of the child's third birthday and, therefore, the Transition Conference cannot be held at least 90 days before the child's third birthday, the service coordinator will discuss the process for transition with the family during the intake process and the transition plan will be incorporated into the initial IFSP. If the child is determined eligible under "Established Condition" or "Developmental Delay," a referral must be sent to the LEA with parent permission as soon as possible. The service coordinator should check the box "90 day timeline for this meeting cannot be met due to child not being enrolled in the FIT Program at that time" on the Transition Referral Form. **These children would not be included in the APR indicators C8c or B12.** LEA staff is required to document the date of a late referral in the STARS database and the corresponding noncompliance reason code.

### **8) What should occur when the late referral occurs at the beginning of the summer when the LEA staff is not available?**

#### **Discussion**

The FIT provider and the LEA need to work together to establish arrangements regarding who in the LEA will be receiving referrals and other information through the summer months and specific dates when LEA personnel will return to work. FIT is responsible for meeting all timelines and will follow the transition process in working with the family. It is important that the family have resources and understand the Part B evaluation process, Part B procedural safeguards, the IEP process, and how to follow up with the LEA.

The service coordinator will make a phone call to the LEA representative at the beginning of the school year to confirm receipt of FIT information, debrief on the current status, and support all efforts of determining Part B eligibility and, for the child who is Part B eligible, begin school as early as possible. The child would need to exit the FIT program at the end of the month in which they turn three.



**9) What are the planning activities that need to occur by FIT Providers and LEA staff prior to the transition conference?**

**Discussion**

The Service Coordinator will work with the family, the LEA, and other key providers to determine a **date for the transition conference** (must be **at least** 90 days prior to the child’s third birthday and no more than 9 months prior) that will work for everyone, and the family will receive prior written notice of the Transition Conference. With parental consent, the Service Coordinator will send a **written invitation to the LEA** (see Appendix D – Sample Transition Conference Invitation) and any other potential preschool providers with the details about the conference (e.g., Head Start, child care, NM School for the Deaf, and NM School for the Blind and Visually Impaired).

To support the use of Part C information in determining Part B eligibility, the **FIT Transition Assessment Summary Form** (see Appendix E – FIT Transition Assessment Summary Form) will be completed and sent to the LEA at least 30 days prior to the Transition Conference. Assessment information is defined as current if they are within 6 months of the transition conference.

Pertinent assessment/evaluation reports, IFSPs, and other information that may support Part B eligibility determination need to be included in files sent to the LEA along with the Transition Assessment Summary Form. Only information that originates with the FIT Program shall be sent. This includes the Early Childhood Evaluation Program (ECEP) evaluations. It is important that the **LEA review the information** sent by the Part C Service Coordinator in order to determine who will attend the transition conference from Part B.

**10) What considerations need to be made for children who turn three over the summer and will need Part B eligibility determined by their third birthday?**

**Discussion**

If the child’s birthday falls within the summer months, transition activities need to occur **early enough to allow sufficient time for all transition activities to take place when school personnel are available**. The transition team participants may need to consider meeting earlier in order to meet all timelines. Transition activities include referral to the LEA (60 days prior to the Transition Conference, if possible 6 months before the child’s third birthday), coordinating the Transition Conference including sending a written invitation and the Transition Assessment summary form

to the LEA (at least 30 days prior to the Transition Conference), the Transition Conference (at least 90 days prior to the third birthday, not more than 9 months prior), and the Initial Evaluation for Part B (within 60 days of parent consent and prior to the child's third birthday). Consideration needs to be made for family scheduling and availability for all activities. Anticipate an increase in transition activities and conferences between January and May.

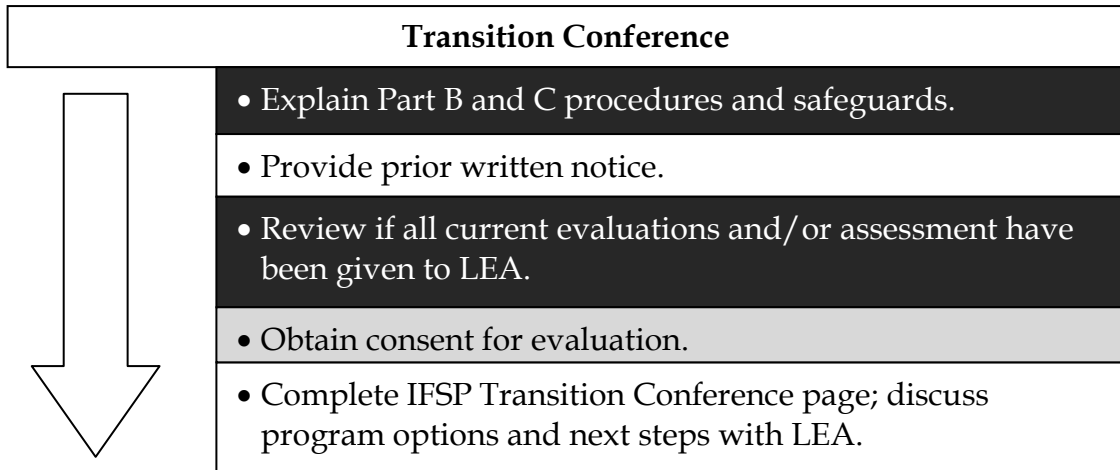
**The following is applicable for children whose third birthday is before July 1, 2012:**

Under the extended Part C/Parent Choice Option, children with summer birthdays who continue to be eligible for FIT will be able to remain in the FIT system until the first day of school.

## State Rules

### 7.30.8.13

- A. Transition planning shall begin early enough to allow the parents to exercise all their rights under state and federal statutes and regulations. Transition planning must be undertaken for each child and family at least 6 months before the child is eligible to transition from early intervention services. Transition planning shall be a process involving meeting(s) and progressive steps toward the smooth and effective transitioning of each child and family.
- B. In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.
- C. Steps/actions shall be identified and included in the IFSP that support the child and family and ensure a smooth and effective transition. With involvement of the parents, such steps/actions shall include, at a minimum:
  - (1) Discussions with the parents regarding future program/service options to include preschool special education services and other community services that may be available and appropriate; representatives from these programs and services shall be included in these discussions to ensure an informed decision;
  - (2) Preparing the child and family for the changes and adjustments to a new setting;
  - (3) With parental consent and in accordance with regulation, the transmission of information, including evaluation and assessment information and copies of ISPs to ensure continuity of services



### 11) *Who convenes and attends the Transition Conference?*

#### Discussion

The FIT program is legally responsible for convening the Transition Conference. It is the responsibility of the Service Coordinator to send a written invitation to the LEA representative to the Transition Conference (at least 30 days prior to the conference) with the approval of the family. It is the legal responsibility of the LEA representative to respond to the FIT provider’s invitation and participate if it is determined that the child is potentially eligible for Part B services. Minimally, attendees to the Transition Conference should include the family, FIT Service Coordinator, LEA representative and any other agency considered for future services. Examples of other agencies might include Head Start, Child Care, NM School for the Deaf, and the NM 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 for the conference to be scheduled. Service Coordinators should communicate frequently with LEA personnel to coordinate the scheduling of conferences so as 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. Part C should document instances when the LEA does not attend if attempts to reschedule are unsuccessful. If Part C fails to schedule the transition conference 90 days prior to the child’s third birthday, the LEA should document this information in STARS.

#### Federal Regulations

**34 CFR § 300.124 Transition of children from the Part C program to preschool programs.** The State must have in effect policies and procedures to ensure that— (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act; ..... (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.

**Part C IDEA 2004 Statute: 20 USC 1437(a)(9)(A)(ii)(II)** in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency *not less than 90 days* (and at the discretion of all such parties, not more than *9 months*) before the child is eligible for the preschool services, to discuss any such services that the child may receive;

## State Rule

### 7.30.8.13 (F) TRANSITION

With approval of the parents, a transition conference shall be convened at least 90 days prior to the anticipated date of transition from early intervention services but no later than 90 days prior to the child's third birthday. If the child may be eligible for preschool services including special education and related services offered through the local education agency, this conference shall include, at a minimum, the parents, the relevant early intervention service providers and the local education agency representative(s). Other relevant service providers should be invited to attend this meeting. The transition process must take into account availability of Head Start and other child care services in the community.

**Subsection (A)(5)(e) of 6.31.2.11** states that "Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child's third birthday, whichever occurs first, to facilitate informed choices for all families."

## 12) ***Does the LEA need to complete any forms prior to their participation in the transition conference?***

### Discussion

**There is not any specific form that the LEA needs to complete.** The LEA should review the Transition Referral Form that will be provided by the FIT program before attending the meeting. The FIT Transition Referral Form is included in this document as Appendix C.

## 13) ***What occurs during the Transition Conference?***

### Discussion

The Service Coordinator will facilitate the meeting to include documentation of discussions and decisions made on the Transition Conference Page of the IFSP. The Transition Conference provides an opportunity for families to learn about their LEA's programs and services and for the LEA representative to learn about the child and the family. Representatives from the LEA and other appropriate agencies and programs should provide information about their services and answer questions.

Ideally, the family should already know some of this information prior to the Transition Conference as transition planning occurs over time as a responsibility of the Service Coordinator's role. 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. As a result of prior planning and conversations, many parents will have signed consent for the Service Coordinator to send a Transition Assessment Summary and other relevant child information to the LEA.

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 as families often need more time to consider their options. If the parent is ready to proceed with the possible Part B eligibility determination process, the current Part C evaluation and assessment should be reviewed, additional assessments needed identified, and next steps determined (including visits to the possible future settings and letting family know the timelines for the evaluation activities, Eligibility Determination Team (EDT), and possible IEP development).

In order to support determining eligibility and the child to transition on their third birthday, the LEA representative must provide prior notice regarding consent to evaluate. The contents of the prior notice must include

- A description of the actions proposed by the LEA,
- A description of each evaluation or assessment to be used, and
- A statement regarding Part B Parent and Students Rights and a copy of the Part B Procedural Safeguards.

## **Federal Regulations**

**IDEA Statute – Part C section 637(a)(9)** (A)(ii) the lead agency designated or established under section 635(a)(10) will – ... (II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and (B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and (C) to establish a transition plan, including, as appropriate, steps to exit from the program;

### **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 Rule**

### **7.30.8.13**

**F.** The service coordinator shall convene and facilitate this conference to ensure the following actions:

1. Review the child's service/program options;
2. Renew, revise or establish a transition plan;
3. Ensure coordination of transition matters including the provision of uninterrupted services to the child and family; and
4. With parental consent, the transmission of information, including evaluation and assessment information and copies of IFSPs to ensure continuity of services.

**Subsection (A)(5) (e) of 6.31.2.11** states that “Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child’s third birthday, whichever occurs first, to facilitate informed choices for all families.”

**14) 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** (see Appendix F – Parent Consent Form for Preschool Evaluation). **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 have a legal right to refuse to sign consent if they have definitely decided not to proceed with Part B initial evaluation and eligibility determination processes.

**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).

**15) What happens if a family who has been referred to Part B refuses to provide consent for an initial evaluation?**

**Discussion**

**Parents have a right to refuse to sign consent if they decide not to proceed with the 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 receive services under Part B of the Individuals with Disabilities Education Act (IDEA).

**The following is applicable for children whose third birthday is before July 1, 2012:**

This is true even though NM State Statute allows for family choice regarding when their child will transition. Therefore, if a parent does not consent to the Part B evaluation and eligibility determination, the service coordinator should provide them with prior written notice that Part C services will end at the time of their child's third birthday. The service coordinator will also provide the family a copy of their procedural safeguards at this time.

Parents who decide not to proceed with eligibility determination for Part B should be given contact information for the LEA in which they reside. It should be made clear that after they exit the FIT program, they may contact the LEA in the future and request an initial evaluation. **The LEA is responsible for documenting the status of the child and tracking that information in STARS. Documentation of refusal to provide consent is also in the Parent Consent for Evaluation Form (see Appendix F).**

**Federal Regulations**

**34 CFR § 300.300 Parental consent.** (a) Parental consent for initial evaluation  
(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.  
(b)(3) If the parent of a child fails to respond or refuses to consent to services under paragraph (b)(1) of this section, the public agency may not use the procedures in subpart E of this part (including the mediation procedure under § 300.506 or the due process procedures under §§ 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child.

**34 CFR § 300.9 Consent.** Consent means that--  
(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.

**16) 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 as evaluations are not conducted at this conference.** 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 and assessment should occur during the conference.

## Federal Regulation

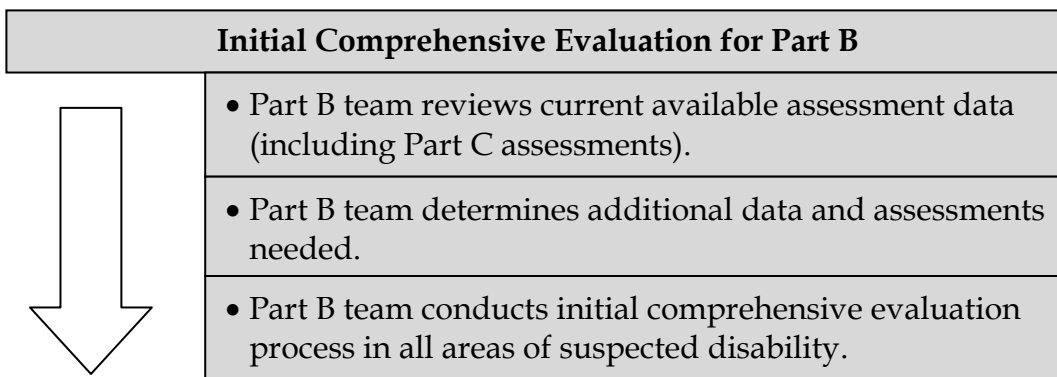
### 34 CFR§ 300.306 Determination of eligibility.

(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...

## State Rule

**Subsection (A)(5) (f) of 6.31.2.11** states that “Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA’s preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child’s eligibility for Part B services or to develop an appropriate program.



## 17) 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 60 days. The purpose of the initial evaluation is to determine if the child is 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 and information provided by parents and the FIT Program, assessments, and teacher observations.

As part of the Part B evaluation procedures, the team must use a variety of assessment tools and strategies to gather functional and developmental information about the child, including information from the parents and 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. The LEA may consider the assessments that the FIT Providers have provided, including the Transition Assessment Summary Form. Specific evaluations considered necessary for determining eligibility but not available from the FIT Provider are the responsibility of the LEA to complete, 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 assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental 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 assessments and evaluation materials used to assess a child are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided in the child's native language or mode of communication most likely to yield accurate information.

As part of a parent's procedural safeguards under Part B, a parent has the right to have an Independent Educational Evaluation (IEE) at no cost. The parent also has a right to receive a copy of their child's evaluation report and documentation of eligibility at no cost.

Note: Hearing and vision screening should be current within one year.

## **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 60 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.
- (3) 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.

**State Rule**

**6.31.2.10**

- E. Procedural requirements for the assessment and evaluation of culturally and linguistically diverse children.
1. Each public agency must ensure that tests and other evaluation materials used to assess children are selected, provided and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the child's native language or other mode of communication, such as American sign language, and in the form most likely to yield accurate information, on what the child knows and can do academically, developmentally and functionally, unless it is clearly not feasible to select, provide or administer pursuant to 34 CFR Sec. 300.304(c)(1).
  2. Each public agency must ensure that selected assessments and measures are valid and reliable and are administered in accordance with instructions provided by the assessment producer and are administered by trained and knowledgeable personnel.
  3. Each public agency must consider information about a child's language proficiency in determining how to conduct the evaluation of the child to prevent misidentification. A child may not be determined to be a child with a disability if the determinant factor for that eligibility determination is limited English proficiency. Comparing academic achievement results with grade level peers in the public agency with similar cultural and linguistic backgrounds should guide this determination process and ensure that the child is exhibiting the characteristics of a disability and not merely language difference in accordance with 34 CFR Sec. 300.306(b)(1).
  4. Each public agency must ensure that the child is assessed in all areas related to the suspected disability.
  5. Policies for public agency selection of assessment instruments include:
    - (a) assessment and evaluation materials that are tailored to assess specific areas of educational need; and

- (b) assessments that are selected ensure that results accurately reflect the child's aptitude or achievement level.
- 6. Public agencies in New Mexico shall devote particular attention to the foregoing requirements in light of the state's cultural and linguistic diversity. Persons assessing culturally or linguistically diverse children shall consult appropriate professional standards to ensure that their evaluations are not discriminatory and should include appropriate references to such standards and concerns in their written reports.

## **18) What is considered an initial evaluation for Part B?**

### **Discussion**

The purpose of an initial evaluation is to see if the child is a child with a disability as defined by IDEA, to gather information that will help determine the child's educational needs (the nature and extent of special education and related services), and to guide decision making about an appropriate educational program for the child including participation in age appropriate preschool activities.

Initial evaluations must be conducted according to the requirements established by IDEA 34 CFR 300.301–311. Evaluation teams are required to follow the *New Mexico Technical Evaluation and Assessment Manual: Determining Eligibility for IDEA Part B Special Education Services (T.E.A.M.)* to guide their efforts. The T.E.A.M. includes specifics on what comprises an initial evaluation in each of the eligibility categories as well as Initial Evaluation Eligibility Worksheets that are provided to assist LEAs as they work through the initial evaluation eligibility process.

The initial evaluation is a process with specific requirements and steps. Multiple sources of information and data are needed to determine eligibility. Assessments, evaluations, observations, and other required data will be gathered throughout the initial evaluation process. The components of the initial evaluation must be administered, reviewed, and/or gathered by personnel licensed by the State of New Mexico and/or the NMPED.

Refer to the Initial Evaluation Checklist (see Appendix G—Preschool Checklists) to support evaluation team efforts to meet requirements. The decisions required in the evaluation process must be made by a team of professionals, and include the parents of the child.

As a part of the initial evaluation, a group of qualified professionals must review existing evaluation data on the child including

- Evaluations, assessments, and information provided by the parents and
- Information provided by FIT, including the Transition Assessment Summary Form and accompanying documentation that will include information gathered through the use of assessment tools, parent interviews, and observational information.

Reviews may be conducted without a meeting. On the basis of that review (refer to Part B Preschool Existing Data Review Checklist in Appendix G) and input from the child's parents, identify what additional data, if any, are needed to determine whether the child is a child with a disability, as defined in IDEA 34 CFR 300.8 and the educational needs of the child, including the need for special education and related service.

If the LEA has determined that sufficient data exist and that no additional data are needed, it is not necessary for LEA evaluation teams to perform additional assessments as part of the initial evaluation process. Although data from assessment instruments are required as part of the Part B initial evaluation process, if the instruments and procedures used by the FIT program meet all

of the requirements in IDEA 34 CFR 300, that information can be used by Part B to make the determinations needed.

If the data is not sufficient and additional information is needed, LEA evaluation teams are responsible for gathering that information, administering any needed assessments and other evaluation measures and following required guidance and regulations.

**19) Can LEAs use assessments and evaluation information from the FIT Program in determining a child's eligibility for Part B services?**

**Discussion**

**It is the responsibility of the LEA to conduct an initial evaluation 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 initial evaluation must be conducted within 60 days of parent consent.

**The LEA must review existing evaluation data, completed within six months of the consent for evaluation, as part of the initial evaluation.** The 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. This may include existing IDEA Part C assessment data conducted within six months. Part C programs have substantial, pertinent information, both qualitative and quantitative, if it has been collected within six months of consent for Part B evaluation. However, **IDEA Part C data cannot be the sole source for determining eligibility for IDEA Part B services.**

**Federal Regulations**

**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.

**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

+and related services under Part B. Parents may make this information available to the Part B eligibility group for their consideration.”

(The Part C regulations described in the OSEP letter to Hirsch are the 1999 regulations. However the OSEP response is reflective of the IDEA 2004 statute for Part B and Part C.)

## State Rules

**Subsection (A)(5)(f) of 6.31.2.11** states that “Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA’s preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child’s eligibility for Part B services or to develop an appropriate program.”

### **20) *Does a child referred from FIT as potentially eligible, defined by Part C’s “established condition” or “developmental delay” category need go through developmental screening or the Response to Intervention (RTI) process before they can move forward with the evaluation?***

## Discussion

Developmental screening is used to determine if skills are progressing as expected or if there is cause for concern regarding a child’s, behavioral, motor, language, social, cognitive, perceptual, and emotional skills, which would require further evaluation. It does not lead to a decision about whether a child has a developmental delay or a disability. It is the evaluation and eligibility determination process that documents the existence of a delay in development or a particular disability.

While screening may be appropriate for children coming into Part B with a referral from the community or a parent, children coming from the Part C FIT program do not need to go through developmental screening. Children referred from FIT under the “established condition” or “developmentally delay” category have already had an evaluation and ongoing assessments and more comprehensive information available through FIT than screening would provide. The child would not need to go through developmental screening that, in this case, is not an efficient use of resources and would cause a delay in the Part B evaluation process.

The RTI process safeguards children who are struggling academically and behaviorally to be identified early and provided needed interventions in a timely and effective manner. It provides children who need additional support with targeted, individualized supports and more intense interventions, ensuring that children who do not respond to interventions and are potentially eligible for special education and related services are referred for evaluation. Children referred from the FIT program have had ongoing targeted interventions and individualized supports and continue to be in need of FIT services and supports. They are ready to move forward with a Part B initial evaluation. The RTI process is not needed for children referred from FIT and would only serve to delay the evaluation process.

## Federal Regulations

**34 CFR § 300.302 Screening for instructional purposes is not an evaluation.** The screening of a student by a teacher or specialist for determining appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

## Other Sources

### OSEP Letter to Musgrove (2010)

(<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep11-07rtimemo.pdf>)

The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation, pursuant to 34 CFR 300.304-300.311, to a child suspected of having a disability under 34 CFR 300.8...It would be inconsistent with the evaluation provisions at 34 CFR 300-301 through 300.311 for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.

### OSEP Letter to Brekken (2010)

(<http://www2.ed.gov/policy/speced/guid/idea/letters/2010-2/brekken060210rti2q2010.pdf>)

The IDEA does not require, or encourage an LEA to use an RTI approach prior to a referral for evaluation or as part of determining whether a 3 -4- or 5 year old is eligible for special education and related services. IDEA section 614 (b) (6) (B) and its implementing regulation at 34 CFR 300.307 (a) (2) require States to adopt criteria for determining whether a child has a *specific learning disability* as defined in 34 CFR 300.8(c)(10), and these criteria, among other factors, must permit the use of a process based on the child's response to scientific research-based intervention (known as RTI). ...The category of specific learning disability is generally not applicable to preschool children with disabilities. The IDEA, and the Part B regulations do not address the use of an RTI model for children suspected of having other disabilities.

Eligibility determination meeting

## 21) How is eligibility determined for Part B services?

### Discussion

**Eligibility is determined after the initial evaluation procedures are complete, including the careful review of existing evaluation and assessment information, observations, and input from the parents.** (See Appendix G.)

A team of qualified professionals, including the parents, determines whether the child meets the New Mexico Part B eligibility requirements. The LEA may choose to use the state-recommended "Determination of Eligibility for Special Education" form. The LEA must, at no cost to the parent, provide a copy of the evaluation report and the documentation of the child's eligibility. With consent of the parent, documentation of the eligibility determination for Part B will also be sent to the referring FIT provider.

### Federal Regulation

#### 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.
- (2) 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.

## State Rules

**6.31.2.11(A)(5)(f)** Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA’s preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child’s eligibility for Part B services or develop an appropriate program.

### 6.31.2.10

F. Eligibility determinations.

(1) General rules regarding eligibility determinations

- (a) Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in 34 CFR Sec. 300.8 and Paragraph (2) of Subsection B of 6.31.2.7 NMAC. The determination shall be made in compliance with all applicable requirements of 34 CFR Sec. 300.306.
- (b) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

**6.31.2.7(B)(2) “Child with a disability”** means a child who meets all requirements of 34 CFR Sec. 300.8 and who:

- (a) is aged 3 through 21 or will turn 3 at any time during the school year;
- (b) has been evaluated in accordance with 34 CFR Secs. 300.304-300.311 and any additional requirements of these or other public education department rules and standards and as having one or more of the disabilities specified in 34 CFR Sec. 300.8 including intellectual disability, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, orthopedic impairment, autism, traumatic brain injury, and other health impairment, a specific learning disability, deaf-blindness, or being developmentally delayed as defined in paragraph (4) below; and who has not received a high school diploma; and
- (c) at the discretion of each local educational agency and subject to the additional requirements of Subsection 2 of Paragraph F of 6.31.2.10 NMAC, the term “child with a disability” may include a child aged 3 through 9 who is evaluated as being developmentally delayed and who, because of that condition, needs special education and related services.

(6.31.2.7(B)(17) NMAC as authorized by 34 CFR §§ 300.8 and 300.39, “special education” in New Mexico may include speech-language pathology services.)

## 22) *Under What Circumstances Can the Category of Developmental Delay Be Considered for Part B Eligibility?*

### Discussion

The eligibility category of Developmental Delay can only be used by LEA personnel for children who do not qualify for special education under any other disability category following the initial comprehensive evaluation. To be eligible for special education and related services under this category, a child must have a documented disability and require specially designed instruction. Since the NMAC statutory changes in 2009, it is no longer possible for a child to be eligible under this category solely based on professional judgment. (See Appendix H – Q&A Regarding Developmental Delay and Appendix I – Clarification on Special Education in New Mexico.)

If a district has opted to use Developmental Delay<sup>2</sup>, then a group of qualified individuals is required to review all data collected through the initial comprehensive evaluation to determine if the child is a child with developmental delays in at least one of five areas in accordance with the NM Administrative Code for Part B: communication development, cognitive development, physical development, social or emotional development, or adaptive development. It is important to consider developmentally appropriate skill levels and behaviors for the child's age level. For clarification of the five recommended areas, a checklist is available in the Technical Evaluation and Assessment Manual (T.E.A.M.) (See NMAC definition below and most recent T.E.A.M.)

### State Rules

**Subsection (F)(2) of 6.31.2.10** Optional use of developmentally delayed classification for children aged 3 through 9

- (a) The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other disability category.
- (b) Children who are classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they become 10. A student who does not qualify under any other available category at age 10 will no longer be eligible for special education and related services.

**Subsection (B)(4) of 6.31.2.7 NMAC** states that Developmentally Delayed “means a child aged 3 through 9 or who will turn 3 at any time during the school year: with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 per cent below chronological age; and who in the professional judgment of the IEP team and one or more qualified evaluators needs special education and related services in at least one of the following five areas: communication development, cognitive development, physical development, social or emotional development or adaptive development. Use of the developmentally delayed option by individual local educational agencies is subject to the further requirements of Paragraph 2 of Subsection F of 6.31.2.10 NMAC,” which specifies in part that “The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other available disability category.”

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<sup>2</sup> Districts are not required to use the category of Developmental Delay.

Evaluation report and documentation of eligibility sent to parent.

**23) How will the FIT program know if a child has been determined eligible by Part B?**

**Discussion**

LEAS, with parental consent, have the option of sharing the evaluation report and documentation of eligibility with the FIT provider. Although this is encouraged, it is not required. For more information refer to the “Timeline of Steps for Early Childhood Transition in New Mexico” at the beginning of the document.

**State Rule**

**6.31.2.10**

F. Eligibility determinations.

(1) General rules regarding eligibility determinations

- (a) Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in 34 CFR Sec. 300.8 and Paragraph (2) of Subsection B of 6.31.2.7 NMAC. The determination shall be made in compliance with all applicable requirements of 34 CFR Sec. 300.306.
- (b) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

Family Service Coordinators will contact the LEA to verify if child was made eligible for Part B. Child's eligibility will be documented in child's record.

**24) Does an IEP need to be in place by the third birthday when the family chooses the Part B program?**

**Discussion**

According to 34 CFR §§ 300.323.(b)(1) and 300.124(b), the IEP must be in place by the third birthday. In the case that a child with a disability is age three through five, an IEP must be in place if Part B is chosen.

**Federal Regulation**

**§ 300.124 Transition of children from the Part C program to preschool programs.**

The State must have in effect policies and procedures to ensure that –

- (a) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with § 300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with § 300.101(b);

**§ 300.323 When IEPs must be in effect.**

(a) *General.* At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in § 300.320.

(b) *IEP or IFSP for children aged three through five.* (1) In the case of a child with a disability aged three through five (or, at the discretion of the SEA, a two year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that

contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is –

- (i) Consistent with State policy; and
- (ii) Agreed to by the agency and the child’s parents

**The following is applicable for children whose third birthday is before July 1, 2012:**

**25) *Does an IEP have to be developed for a child who remains in the Part C program?***

**An IEP does not need to be developed while the child remains in the Part C Program.** If the child remains in Part C beyond their third birthday, the IFSP will be updated and revised to include an educational component that promotes preschool readiness, including addressing pre-literacy, language, and numeracy skills. The LEA staff does not need to be involved in revising the IFSP.

**26) *If children do not meet eligibility for Part B but still meet eligibility for Part C can they remain in the FIT Program under the Parent Choice Statute?***

If the child is not eligible for Part B but remains eligible for Part C under “Established Condition” or “Developmental Delay” and the family chooses to remain in the FIT Program, they can do so and receive all services in accordance with their IFSP. The FIT service coordinator will assist the family with referrals to Head Start and other preschool options. For children who are eligible for Part C under “Biological / Medical Risk” or “Environmental Risk,” the family may still choose to remain in the FIT Program and can continue to receive service coordination and up to 2 hours per month of early intervention services.

Individualized Education Program (IEP) developed.

The following is applicable for children whose third birthday is before July 1, 2012:

**27) *Is a Part B reevaluation needed closer to the actual transition for children who have been determined eligible for Part B and whose parents choose for them to remain in FIT services beyond their third birthday and transition at a later time to Part B services?***

**Discussion**

The child would not need to be reevaluated upon entry to Part B at a later date because the child has been determined eligible for Part B services. The initial evaluation is considered valid for up to three years. However, it is recommended practice to revisit the most current Part C data to determine if the child has progressed since the initial evaluation in order to develop an appropriate IEP.

**Federal Regulation**

**34 CFR § 300.303 Reevaluations.** (a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§ 300.304 through 300.311 – (1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or (2) If the child’s parent or teacher requests a reevaluation. (b) Limitation. A reevaluation conducted under paragraph (a) of this section – (1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and (2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

**State Rule**

**6.31.2.10(D)(2) Reevaluations.**

- (a) Each LEA must ensure that a reevaluation of each child is conducted at least once every three years, unless the parent and the public agency agree that a reevaluation is unnecessary, and is in compliance with the requirements of 34 CFR Secs. 300.303-300.311, and any other applicable department rules and standards.
- (b) Reevaluations may be conducted more often if:
  - (i) the LEA determines the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or
  - (ii) the child’s parent or teacher requests a reevaluation.
- (c) Reevaluations may not occur more than once a year, unless the parent and public agency agree otherwise.

**28) *If a family chooses for their child to remain in FIT or more, what procedures do you follow to update information to Part B for IEP development?***

It is recommended that the LEA invite the FIT service coordinator and other early intervention staff, with parent permission, to attend and help develop initial IEP. If the FIT service coordinator and other early intervention staff are not invited to the initial IEP meeting the LEA can request the current IFSP and assessment information from the FIT service coordinator prior to the IEP. The service coordinator can send this information with parent consent. The LEA will use the information from the FIT program in the development of the IEP with the family.

**29) *Should there be an MOU between the LEA and local FIT Provider to outline the transition process to ensure that children being referred from Part C to Part B have an IEP in place by their third birthday and receive FAPE?***

**Discussion**

**A Memorandum of Understanding (MOU) is required and should outline the early childhood transition process in detail for both Part C and Part B to ensure that children and their families have a smooth transition process and that FAPE will be provided to children entering the Part B program.**

The MOU should address specific procedures at the local level in order to promote a smooth and effective transition for the children and their families. The MOU should be reviewed, and revised as necessary, at least annually.

Developing an MOU is a process of ongoing meeting and dialogue between partners to gain an understanding of the requirements each partner is obligated to meet, the internal procedures each agency follows to meet those requirements, and the agreement each partner makes to support efforts to have a smooth and effective transition experience for each child and family. The MOU Work Sheet (see Appendix J—MOU Work Sheet) is a tool available to support teams to develop a community MOU that will meet the unique needs of their team and partners.

Samples of MOUs developed by New Mexico Community Transition Teams are available at the NM Early Childhood Transition website at [http://cdd.unm.edu/ec/Transition/teams\\_ECT.htm](http://cdd.unm.edu/ec/Transition/teams_ECT.htm) as a resource.

**State Rules**

**6.31.2.9 Public Agency Responsibilities**

- (a) Compliance with applicable laws and regulations. Each New Mexico public agency, within the scope of its authority, shall develop and implement appropriate policies, procedures, programs and services to ensure that all children with disabilities who reside within the agency's educational jurisdiction, including children who are enrolled in private schools or facilities such as residential treatment centers, day treatment centers, hospitals, mental health institutions, or are schooled at home, are identified and evaluated and have access to a free appropriate public education (FAPE) in compliance with all applicable requirements of state and federal laws and regulations. This obligation applies to all New Mexico public agencies that are responsible under laws, rules, regulations or written agreements for providing educational services for children with disabilities, regardless of whether that agency receives funds under the IDEA and regardless of whether it provides special education and related services directly, by contract, by referrals to private schools or facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions or through other arrangements.
- (b) Public agency funding and staffing.
  - (1) Each public agency that provides special education or related services to children with disabilities shall allocate sufficient funds, staff, facilities and equipment to ensure that the requirements of the IDEA and all department rules and standards that apply to programs for children with disabilities are met.
  - (2) The public agency with primary responsibility for ensuring that FAPE is available to a child with a disability on the date set by the department for a child count or other report shall include that child in its report for that date. Public agencies with shared or successive responsibilities for serving a particular child during a single fiscal year are

required to negotiate equitable arrangements through joint powers agreements or memorandums of understanding or interstate agreements for sharing the funding and other resources available for that child. Such agreements shall include provisions with regard to resolving disputes between the parties to the agreement.

**30) *What signatures are required on the MOU?***

MOUs must be signed by stakeholders only. Stakeholders include LEAs, Part C providers, and agencies providing services (to include Regional Education Cooperatives (RECs), New Mexico School for the Blind and Visually Impaired and the School for the Deaf). Parent advocacy groups are not required to sign the MOU.

**31) *Will MOUs continue to be tied to LEA funding?***

MOUs will continue to be tied to LEA funding. Revised MOUs will need to be submitted with the annual local subgrant application. Changes to the MOU will require an addendum. An addendum will need to be signed by the LEA, Part C providers and any other agency providing services.

**32) *How many years is the MOU valid?***

In accordance with the state MOU between Department of Health (DOH) and New Mexico Public Education Department – Special Education Bureau, the local MOU is valid for four years.

**33) *What is the first day of school?***

**Discussion**

The first day of school for schools within a school district, is **the first day of school** as posted on their annual district school calendar.

**State Rules**

**Paragraph (g) of Subsection (A)(5) 6.31.2.11 NMAC.** Each LEA shall initiate a meeting to develop an eligible child’s IFSP, IEP, or IFSP-IEP, in accordance with **34 CFR § 300.323**, no later than 15 days prior to the first day of the school year of the LEA where the child is enrolled or no later than 15 days prior to the child’s entry into Part B preschool services if the transition process is initiated after the start of the school year, whichever is later, to ensure uninterrupted services. This IFSP, IEP, or IFSP-IEP will be developed by a team constituted in compliance with **34 CFR §300.321** that includes parents and appropriate early intervention providers who are knowledgeable about the child.

**34) *Can the first day of school be different for preschool students or students with disabilities?***

All students must be treated equally; holding students with disabilities to a lesser standard would be discrimination. If for some reason the start date is different than the first day of school for all other students and the student is not transitioning after the school year begins, the IEP implementation date and the start date must be determined by the IEP team.

**35) *May children residing in one district receive services in or by another district?***

**Discussion**

Children may receive services in a district other than the district of residence if there is an agreement between two districts to provide special education services that the other district cannot provide. In this instance, the home district would be responsible to provide transportation for the student to receive their special education services in the other district.

If a parent chooses to enroll their child who is transitioning from Part C to Part B in another school district under the open enrollment act, they would need to go through the transition process with the district of residence to determine if their child is eligible to receive special education services under Part B. Once eligibility is determined, the parent may seek to enroll their child in another district. The decision of a district to enroll an out-of-district student is a local decision determined by local policy set forth in Section 22-1-4 NMSA 1978. Transportation in the instance of open enrollment would be the responsibility of the parent.

**State Rules**

**Subsection B(6) of 6.31.2.7** The educational jurisdiction of a public agency includes the geographic area, age range, and all facilities including residential treatment centers, day treatment centers, hospitals, mental health institutions, juvenile justice facilities, state supported schools, or programs within which the agency is obligated under state laws, rules or regulations or by enforceable agreements including joint powers agreements (JPA) or memoranda of understanding (MOU) to provide educational services for children with disabilities. In situations such as transitions, transfers and special placements, the educational jurisdiction of two or more agencies may overlap and result in a shared obligation to ensure that a particular child receives all the services to which the child is entitled.

**Federal Regulations**

**34 CFR §300.17 Free appropriate public education.** Free appropriate public education or FAPE means special education and related services that – (a) Are provided at public expense, under public supervision and direction, and without charge; (b) Meet the standards of the SEA, including the requirements of this part; (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR §§ 300.320 through 300.324.

# APPENDICES

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# **APPENDIX A**

## **State Memorandum of Understanding**

**MEMORANDUM OF UNDERSTANDING  
CONCERNING  
THE TRANSITION OF CHILDREN  
AMONG  
NEW MEXICO DEPARTMENT OF HEALTH,  
NEW MEXICO PUBLIC EDUCATION DEPARTMENT**

This Memorandum of Understanding is made and entered into among the New Mexico Public Education Department, hereinafter referred to as the "PED" and the New Mexico Department of Health, hereinafter referred to as the "DOH".

WHEREAS, Section 28-18-1.C NMSA 1978, states:

*"If a child enrolled in the family, infant, toddler program has his third birthday during the school year, the child's parents shall have the option of having the child complete the school year in the family, infant, toddler program or enrolling the child in the public school's preschool program. A child with a disability who enrolls in the public school's preschool program and who has his third birthday during a school year may receive special education and related services from the beginning of that school year."*

WHEREAS, the State of New Mexico participates in the Individuals with Disabilities Education Act (IDEA), hereinafter referred to as the "Act";

WHEREAS, the PED is responsible for the implementation of Part B under the Act and ensuring that a Free Appropriate Public Education (FAPE) is available to all IDEA eligible children with disabilities age three years through twenty-one years;

WHEREAS, the DOH is the lead agency for implementing Part C under the Act and ensuring access to early intervention services for all eligible children;

WHEREAS, the federal regulations for Part B, "Assistance to States for the Education of Children with Disabilities" 34 CFR Part 300, Final Regulations dated August 14, 2006, require in section 300.124:

***Transition of children from Part C to preschool programs.***

*"The State must have in effect policies and procedures to ensure that-*

- (a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act.*
- (b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with 300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with 300.101(b); and*
- (c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act".*

WHEREAS, section 637(a)(9) of Part C of IDEA, provides that:

***Transition to preschool programs***

*Each application must include a description of the policies and procedures to be used--*

*"(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(c)) to preschool, school, other appropriate services, or exiting the program, including a description of how--*

*(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and*

*(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;*

*(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than*

9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan, including, as appropriate, steps to exit from the program"

WHEREAS, section 303.653 of the regulations to Part C of the Act requires that:

**Transitional services.**

"Each Council shall advise and assist the state educational agency [PED] regarding the transition of toddlers with disabilities to services provided under Part B of the Act, to preschool and other appropriate services."

NOW, THEREFORE, the PED and DOH in consideration of the mutual covenants and agreements herein contained, do hereby agree to the purpose, terms, and conditions of this Memorandum of Understanding.

**I. PURPOSE OF AGREEMENT**

The purpose of this agreement is to ensure the coordinated, smooth and effective transition of children and families as they move from early intervention services under Part C into Part B programs and services for the benefit of children and families residing in the State of New Mexico.

**II. TERMS OF AGREEMENT**

To carry out the purpose of this agreement, the parties agree to the following:

**A. REGULATIONS, POLICIES AND PROCEDURES**

- DOH and PED shall establish respective regulations, policies and procedures, aligned with IDEA 2004, that ensure the coordinated, seamless and effective transition of children and families participating in the Part C early intervention program who are eligible for participation in preschool programs under Part B, within the required timelines established by IDEA.
- The parties shall collaborate on the formulation of regulations, policies and procedures in order to ensure coordination and understanding among departments and agencies.

**B. PARENT CHOICE — NEW MEXICO STATUTE PERTAINING TO TRANSITION**

- The parties shall honor the parent's right to full disclosure of information in order to make informed decisions regarding when their child will transition as outlined below in NM State Statutes NMSA 1978 (as amended by Chapter 27, NM Laws 2004).

**Sec. 28-18-1 Family Infant Toddler (FIT) Program Statute**

- The parent may choose whether the eligible child shall participate in the Family Infant Toddler Program.
- If a child enrolled in the Family Infant Toddler Program has his or her third birthday during the school year, the child's parent shall have the option of having the child complete the school year in the family infant toddler program or enrolling the child in the public school's preschool program. A child with a disability who enrolls in the public school's preschool program and has his third birthday during a school year may receive special education and related services from the beginning of that school year.

**Sec. 22-13-5 Special Education Statute**

- School districts shall also provide services for three-year-old and four-year-old preschool children with disabilities, unless the parent or guardian chooses not to enroll the child.
- If a child receiving services in the department of health's family infant toddler program has his third birthday during the school year, the child's parents shall have the option of having the child complete the school year in the family infant toddler program or enrolling the child in the public school's preschool program. A child with a disability who enrolls in the public school's preschool program and who has his third birthday during a school year may receive special education and related services from the beginning of that school year.
- The services may be provided by certified school personnel or contracted for with other community agencies and shall be provided in age-appropriate, integrated settings including home, daycare centers, head start programs, schools or community-based settings.

### **C. THE TRANSITION PROCESS AND RESPONSIBILITIES**

The parties agree to the following responsibilities in each of the following steps of the transition process:

#### **1. TRANSITION PLANNING**

DOH:

- By 24 months of age, but at least 6 months prior to the beginning of the school year in which the child turns three, the service coordinator and the family shall identify and document the specific steps and actions that will support the child and family through the transition. These individualized steps and actions shall be included in the IFSP.
- The Service Coordinator shall fully inform the family of the options regarding when their child may transition, in accordance with state statute. The service coordinator shall continue, throughout the transition process, to document the steps and actions in the IFSP.
- The service coordinator shall ensure that the family is fully aware of the array of service and program options available under Part B including home, daycare centers, head start programs, schools or community-based settings.
- The service coordinator will consider the parent(s) needs for childcare in the transition planning process.
- The Service Coordinator will submit a Transition Referral Form with parent consent to the Local Education Agency (LEA) at least 60 days prior to the Transition Conference, and if possible 6 months prior to the child's third birthday.
- With parent consent, the Service Coordinator will coordinate the completion and submission of the Transition Assessment Summary Form to the LEA at least 30 days prior to the Transition Conference.

PED:

- The PED will assure that the LEA will coordinate efforts with local early intervention providers to support parent and family involvement in the transition planning process.
- The PED will assure that LEA will coordinate with early intervention providers to facilitate visits by families to classrooms and/or learn about services provided by the school district.

#### **2. THE TRANSITION CONFERENCE**

DOH:

- The Service Coordinator will (with the approval of the parent(s)) convene and facilitate a transition conference at least 90 days and, at the discretion of all parties, nine months prior to the child's third birthday. If the family chooses to transition at the beginning of the school year in which their child turns 3, the transition conference would be held at least 90 days before the beginning of that school year.
- If the child is potentially eligible for Part B preschool services through the local education agency (LEA), then the LEA representatives must be invited to participate in the 90 day

transition planning conference. The invitation will be sent at least 30 days prior to the transition conference.

- With approval of the parents, other relevant service providers should also be invited (Head Start, child care providers, etc.).
- The family's service coordinator shall facilitate this meeting to ensure the following:
  - Review the child's service and program options.
  - Review the IFSP, evaluation, assessment information, and other relevant data/information.
  - With parental consent, the transmission of information, including evaluation and assessment information and IFSPs to the receiving agency.
  - Review whether all current evaluation and / or assessments have been given to the LEA.
  - With parental consent, refer child for an initial Part B evaluation.
- The service coordinator shall document all outcomes and decisions of the transition conference in the IFSP.

**PED:**

- The PED will assure that appropriate representatives from the LEA participate in the 90-day transition conference arranged by the designated early intervention provider.
- The PED will assure that the LEA will obtain the consent from the parent(s) to conduct the initial evaluation for Part B.
- The PED will assure that the LEA will schedule a date for a group of qualified professionals from the LEA and the parent(s) to review any existing data, including the IFSP, evaluations and information provided by parents or other data as allowed, as part of the process for determining eligibility for IDEA Part B.
- The PED will assure that the LEA will determine the need for additional evaluation, assessment, and information.
- The PED will assure that the LEA will provide the parents a copy of the procedural safeguards under the IDEA and obtain parental consent to conduct an initial evaluation.
- The PED will assure that the LEA will schedule a date for the IEP Team meeting, to determine possible eligibility under Part B of the IDEA.

**3. EVALUATION FOR PART B SERVICES**

**DOH:**

- With parental consent, DOH shall ensure the timely transmission of current evaluation and assessment information and copies of IFSPs to the LEA, in order to facilitate a coordinated and seamless transition from Part C to Part B.
- The service coordinator will complete the Transition Assessment Summary at least 30 days prior to the transition conference. Data should not be older than six months.

**PED:**

- The PED will assure that the LEA will provide and explain to the parent(s) in their native language or other mode of communication used by the parent(s) the Procedural Safeguards including prior written notice prior to the evaluation.
- The PED will assure that the LEA will determine eligibility for Part B services that includes the review and use of existing Part C evaluations and assessments and the IFSP information as part of the initial evaluation. Evaluations must have been administered within six months in order to be considered valid.
- The PED will assure that the LEA will schedule a date for initial evaluation.
- The PED will assure that the LEA will conduct the initial evaluation within 60 days of the Consent Form for Preschool Evaluation signed by the parent(s).
- The PED will assure that the LEA will conduct the initial evaluation in accordance with 34 CFR § 300.304 to include a variety of measures and sources, including functional, aptitude,

and achievement tests, and parent input, as well as information about the child's physical condition, social or cultural background.

- The PED will assure that a group of qualified professionals from the LEA and the parent of the child must determine whether the child is a child with a disability in accordance with state and Federal regulations
- The PED will assure that the LEA shall provide a copy of the evaluation report and the documentation of the eligibility determination to the parent(s) and with parental consent, a copy of this documentation to the referring FIT provider.

#### **4. THE INDIVIDUALIZED EDUCATION PROGRAM (IEP) PROCESS**

PED:

- If the parent chooses for their child to remain in the Part C program, as allowed under State statute, early intervention services through the FIT Program will continue in accordance with the Individualized Family Service Plan (IFSP) under IDEA sec. 635(c)(2)(D). An IEP does not need to be developed while the child remains in the Part C Program.
- The PED will assure that the LEA shall conduct the initial IEP meeting no later than 15 days prior to the child's entry into the preschool program.
- The PED will assure that the LEA at the request of the parent must send an invitation to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition services.
- The PED will assure that the LEA will provide a copy of the Procedural safeguards to the parents.
- The PED will assure that the LEA will begin Part B services on the date specified on the IEP.

DOH:

- When invited, the service coordinator and appropriate early intervention staff shall participate in the IEP meeting conducted by the LEA.

#### **5. PROVISION OF UNINTERRUPTED SERVICES**

DOH:

- Early intervention services shall be provided in accordance with the IFSP to children and families until the date specified on the IEP.

PED:

- Preschool services will begin on the first day of school unless otherwise stated on the IEP.
- Special Education and related services will be provided by the start date for services specified on the child's IEP.
- The LEA shall initiate a meeting to develop the child's IEP no later than 15 days prior to the child's transition to Part B programs in order to ensure continuous and uninterrupted services.

#### **6. POST TRANSITION SERVICE COORDINATION**

DOH:

- Post transition service coordination shall be offered to the family as an option. If the parent(s) requests this service, it must be provided in accordance with the Family Infant Toddler Program's service standards.
- Post transition service coordination may involve visits with the family, consultation to staff of the receiving agency/agencies, an evaluation of the effectiveness of the transition process.
- Post transition service coordination activities must be documented in the IFSP.

#### **D. FINANCIAL RESPONSIBILITIES**

DOH:

- The Department of Health shall assume financial responsibility for evaluations, assessments, and services for children under IDEA Part C through the Family Infant Toddler Program, including children whose parent(s) choose for them to continue in the FIT Program until the beginning of the school year following their third birthday.

PED:

- The LEAs shall assume financial responsibility for evaluations, eligibility determinations and services for children under IDEA Part B. This includes children whose parent(s) choose for the child to receive FAPE at the beginning of the school year in which their child turns three.

**E. TRAINING AND TECHNICAL ASSISTANCE**

The parties shall jointly provide and support training and technical assistance to parents, early intervention providers, public school personnel, and head start personnel.

**F. DATA SHARING**

In accordance with IDEA Part C Sec. 303.148 (b) (1), the early intervention provider will: "notify the educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act" in order to facilitate collaboration between LEAs and local FIT provider agencies around the timely transition planning for children that have a potential to transition to IDEA Part B services.

DOH:

- The DOH shall assure that the FIT providers notify the LEA of children who reside in the LEA's educational jurisdiction and who are potentially eligible for Part B services. For this purpose "potentially eligible" shall be considered those children eligible under the established condition or "developmental delayed" category.
- The DOH shall assure that the FIT provider will provide this notification to the LEA at least quarterly. This notification shall include:
  - The first name, last name, middle initial, data of birth, LEA where the child resides, contact information for the parent(s).

PED:

- The PED will assure that each LEA will survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.
- The PED will assure that the LEAs will enter all student aggregate data into STARS, for students who were referred from Part C to Part B, regardless of eligibility, including those whose parents choose for them not to receive services or those families who choose for their child to remain in Part C. These data will be used to calculate the percentages for Part B State Performance Plan Indicator 11 (60 day timeline) and Indicator 12 (Part C to Part B transition).

**G. ACCOUNTABILITY**

- PED and DOH will provide representation to the Interagency Coordinating Council (ICC).
- The parties shall ensure the coordination of transition matters at the local level by fostering the development of local level community based interagency agreements.
- The parties shall demonstrate accountability related to the indicators in the Part C and Part B State Performance Plan (SPP) and Annual Performance Report (APR) that address early childhood transition.

**III. Administering Agencies**

The parties to this Memorandum of Understanding shall jointly administer this agreement and be responsible for a timely and full review every four years. An interim review may be conducted as needed.

**IV. Payment and Property**

No payment or property will be exchanged between or among the parties as a result of this Memorandum of Understanding.

**V. Effective Date, Amendment, and Termination of Memorandum of Understanding**

The Memorandum of Understanding shall be effective when signed by the respective agency heads as parties. The parties shall accomplish evaluation and review of this Memorandum of Understanding every four years and interim reviews may be conducted as necessary. Agreed upon changes shall be executed in writing by the parties. This Memorandum of Understanding shall be ongoing and shall not be terminated unless a party gives forty-five (45) days advance written notice to the other party of its intent to terminate its participation in the Memorandum of Understanding.

**VI. Provisions**

Each party shall be solely responsible for fiscal or other sanctions, penalties, or fines occasioned as a result of its own violation or alleged violation of requirements applicable to performance of this Agreement. Each party shall be liable for its acts or failure to act in accordance with this Agreement, subject to the immunities and limitations of the New Mexico Tort Claims Act.

**VII. Dispute Resolution**

The dispute resolution process for both intra- and interagency disputes about payments for services or other matters related to New Mexico's Part C program will be fulfilled in compliance with 34 CFR §303.523(c). This dispute resolution process does not replace the procedural safeguards—due process, mediation, and state-level complaint—available to families.

DOH and PED are responsible for resolving intra- and interagency disputes regarding financial responsibility for services or other matters related to New Mexico's Part C program according to the following procedures:

- I. Staff of the involved agenc(ies) attempt to resolve the dispute within 30 days.
- II. If it appears by the 30th day that the involved agenc(ies) will not be able to resolve the dispute, the following will occur:
  - A. The early intervention service provider, LEA representative or agency representative will submit a written explanation of the dispute to the Deputy Secretary of DOH and the Deputy Secretary of Learning and Accountability for PED.
  - B. Within 15 days, the deputy secretaries shall meet in person or by phone to resolve the dispute consistent with this Memorandum of Understanding and related federal and state statutes and regulations.
  - C. Within 5 days of reaching the resolution, written notification of the resolution will be provided to the parties, as well as the chairperson of the Interagency Coordinating Council and the chairperson of the IDEA Advisory Panel,
  - D. If the deputy secretaries are unable to agree on a resolution or if either party to the complaint disagrees with the resolution, the dispute may be appealed to the Secretary of DOH and Secretary of PED. Appeals must be brought to the Secretaries and no later than 45 days from the date of the decision rendered in subsection (B).
  - E. The Secretaries may resolve the issues on appeal and render a written decision or may arrange for a hearing conducted by a hearing officer. If a hearing is held, a hearing officer appointed by the Secretaries shall conduct it. The Secretaries may affirm, reverse, or modify the proposals of the hearing officer.
  - F. During the pendency of an interagency dispute, the early intervention service provider is responsible to provide the services required by the approved IFSP for eligible children and their families.
  - G. Nothing in this agreement shall be construed to limit any existing substantive or procedural protections of state or federal law or regulations.

IN WITNESS WHEREOF, the PED and DOH have caused this Memorandum of Understanding to be executed.

Veronica C. Garcia      11.19.09  
Veronica Garcia, Ed.D., Secretary of Education      Date  
NM Public Education Department

Alfredo Vigil MD      12/17/09  
Dr. Alfredo Vigil MD, Secretary      Date  
NM Department of Health

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:  
Paul A. Vento      Date: 11/18/09  
Office of General Counsel, PED

APPROVED AS TO LEGAL FORM AND SUFFICIENCY:  
Ramona H. Schmitt      Date: 12/18/09  
Office of General Counsel, DOH

# **APPENDIX B**

## **Data Sharing Memorandum**



STATE OF NEW MEXICO  
PUBLIC EDUCATION DEPARTMENT  
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SANTA FE, NEW MEXICO 87501-2786  
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HANNA SKANDERA  
SECRETARY OF EDUCATION

SUSANA MARTINEZ  
Governor

JUNE 8, 2011

## MEMORANDUM

**TO:** Special Education Directors  
Regional Education Cooperative Directors

**FROM:** Denise Koscielniak  
Special Education Director, Special Education Bureau

**RE:** **MEMORANDUM OF UNDERSTANDING: PART C TO PART B  
TRANSITION - DATA SHARING**

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In order to meet the State's general supervision responsibilities under the Individual with Disabilities Education Act (IDEA), the Memorandum of Understanding (MOU), between the New Mexico Department of Health (DOH) and the New Mexico Public Education Department (NMPED) indicates the agencies involved shall collaborate to ensure coordination and understanding of the implementation of the MOU with IDEA Part C Early Intervention Services and the Part B Local Educational Agency (LEA).

The LEAs submitting their annual IDEA-B funding applications will be required to adhere to the following:

1. LEAs must meet assurances annually.
2. LEAs must submit any revisions to their MOU with their annual IDEA -B funding application.
3. LEAs must submit their four year revision of their MOU as part of their IDEA-B funding application.

In the past, the Special Education Bureau (SEB) has supplied lists to the LEAs of potential students transitioning out of Part C and who may qualify for Part B services. The SEB has been advised by the U.S. Department of Education Office of Special Education Programs (OSEP) that it is the LEAs responsibility to obtain the lists from the Part C agency. The LEA must survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEAs Part B preschool program in accordance with Subsection A(5)(a) of 6.31.2.11. The Part C lead agency must share the directory information for potentially eligible students with their LEAs. The DOH shall assure that the FIT provider will provide this notification to the LEA at least quarterly. The process of sharing this data should be addressed in the local MOU established between the Part C Agency and the LEA.

The LEA must enter all student data into the Student Teacher Accountability Reporting System (STARS), for students referred from Part C to Part B, regardless of eligibility, including those whose parents choose for them not to receive services or those families who choose for their child to remain in Part C.

The data reported will be used to calculate the percentages for Part B State Performance Plan compliance Indicators 11 (60 day timeline) and Indicator 12 (Part C to Part B transition). Data for Indicator 11 must be submitted into STARS each reporting period date. Final 2011 - 2012 data for Indicator 12 must be reported on the second reporting period date (the second Wednesday in December).

If you have any questions, you can contact your assigned special education staff member or call (505) 827-1457 for assistance.

DK/it

# **APPENDIX C**

## **FIT Transition Referral Form**



## Transition Referral Form

Today's Date: \_\_\_\_\_

Child's Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Child's Diagnosis / Disability (if applicable): \_\_\_\_\_

Parent/Guardian Name(s): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_

FIT Agency Referring: \_\_\_\_\_

FIT Service Coordinator: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Current IFSP Date: \_\_\_/\_\_\_/\_\_\_ (See attached)

**Provider agencies on the child's current IFSP:**

- |    |    |
|----|----|
| 1. | 3. |
| 2. | 4. |

**The FIT Service Coordination will be contacting the school district to schedule a Transition Conference that will need to occur by \_\_\_/\_\_\_/\_\_\_\***

\*At least 90 days prior to the child's 3<sup>rd</sup> birthday. \*

90 day timeline for this meeting cannot be met due to the child entering the FIT Program within 90 days of their child's third birthday.

By signing this form I agree that \_\_\_\_\_ (FIT provider agency) can release information to the local school district. This release is good from \_\_\_\_\_ to \_\_\_\_\_.

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
FIT Service Coordinator Signature

\_\_\_\_\_

# **APPENDIX D**

## **Sample Transition Conference Invitation**

## <FIT PROVIDER AGENCY LETTERHEAD>

**To:** <Parent(s) names>  
<LEA representative>  
<Head Start / other preschool provider (as appropriate)>  
<Other FIT provider agency(ies) currently serving the child and family>  
<FIT early intervention personnel>  
<Other individuals (as requested by the parent)>

**From:** <Service Coordinator's name, title and FIT provider agency>

**Date:** <Today's Date>

**Re:** Transition Conference Invitation

---

You are requested to attend the transition conference for <name of child> <(Date of Birth)>

The transition conference details were scheduled with parent(s) and preschool providers. The details of the conference are as follows:

Date: <date of transition conference>  
Time: <start and end times of the transition conference>  
Location: <address and room information of the transition conference>

The purpose of this conference is to fully inform the parent(s) of their options for their child's transition from the Family Infant Toddler (FIT) Program and the timelines for transition based on their child's 3<sup>rd</sup> birthday and the parents choice. At this meeting the team will decide on specific steps and activities to make sure that the transition process is smooth for the child and family.

If you have any questions / concerns regarding this transition conference please contact me at (xxx) xxx-xxxx or [name@xxxx.org](mailto:xxx@xxxx.org)

Thank you!

copy: child file

# **APPENDIX E**

## **FIT Transition Assessment Summary Form**



## Transition Assessment Summary Form

This form is to be completed by child's service delivery team.  
 This form must be sent to LEA at least 30 days prior to Transition Conference

Today's Date: \_\_\_\_\_ Child's Name: \_\_\_\_\_ Primary Language: \_\_\_\_\_

DOB: \_\_\_\_\_ Chronological Age: \_\_\_\_\_ Date of Testing: \_\_\_\_\_

Primary FIT Agency: \_\_\_\_\_ FIT Service Coordinator Name: \_\_\_\_\_

Contact Information: \_\_\_\_\_

Child's Diagnosis (if applicable): \_\_\_\_\_

**Current Developmental Levels / Information (from assessment within 6 months of the transition conference)**

Assessment Instrument (s) Used	Conducted by (name & license/certification)	Contact Information

Domain	Description of child's functioning	Developmental level/% of Delay
Communication (Receptive & Expressive)		
Fine Motor		
Gross Motor		
Adaptive/ Self Help		
Cognitive		

<b>Social/Emotional</b>		
<b>School Readiness- (Pre-literacy / Pre-numeracy)</b>		

**Other Information:**

<b>Vision:</b>	
<b>Hearing</b>	
<b>Health/Medical</b>	

**Early Childhood Outcomes:**

Date completed \_\_\_\_\_ (Exit or most recent ECO completed)

<b>Indicator</b>	<b>Outcome Ratings</b>
A. Positive social-emotional skills (including social relationships);	
B. Acquisition and use of knowledge and skills (including early language/ communication);	
C. Use of appropriate behaviors to meet their needs.	

By signing this form I agree that \_\_\_\_\_ (FIT provider agency) can release the information on this form to the local school district. This release is good from \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
FIT Service Coordinators Signature

\_\_\_\_\_  
Date

(Attach the child's current IFSP, any current assessment(s), and most recent ECO).

# **APPENDIX F**

## **Parent Consent Form for Preschool Evaluation**

To the Parent(s)/Guardian(s) of \_\_\_\_\_ Date: \_\_\_\_\_

Following a discussion with Early Intervention Service Providers acquainted with my child, I authorize the use of current assessments, classroom based observation, information provided by the parents and school educational diagnosis to aid in the planning and to assist in the guidance of my child. I understand that this initial evaluation may include administration of the following assessments including review of Part C data:

Assessments-designed to measure learning ability or intellectual capacity of school readiness to include:

- Pre-literacy
- Language
- Numeracy Skills

Functional/Developmental Skills – designed to evaluate how the child applies and uses his or her abilities in different circumstances to include:

- Self help skills
- Fine/Gross motor skills
- Physical

Behavior and psychological assessment – tests how the child feels, reacts, and adapts to different social environments and situations; assesses social skills, emotional skills and mental skills, including review of Part C data (if applicable)

- Socio/emotional/mental skills

Visual-motor/vision – checks coordination, balance, eye movement, eye-to-hand coordination, form recognition, and visual memory including review of Part C data (if applicable)

Speech and language assessment – assesses symbolic communication in speech, language, or hearing, including articulation disorder, language disorder, and voice disorder including review of Part C data (if applicable)

CONSENT FOR EVALUATION (continued)

- OT evaluation—assesses the ability to use and manipulate small muscle groups, primarily the hands, which affect activities such as drawing and writing including review of Part C data (if applicable).
- PT evaluation— assesses the ability to use and manipulate large muscles that affect activities such running and throwing; assesses body control, balance, and coordination including review of Part C data (if applicable)
- Audiology/Hearing evaluation— determines the presence and/or degree of hearing loss and the selection and fitting of hearing aids including review of Part C data (if applicable)
- Program based (Part C) observation—a trained professional observes behavior in natural environment and records or classifies each behavior objectively as it occurs including review of Part C data (if applicable)
- (other) \_\_\_\_\_
- 

A copy of the evaluation report and documentation of eligibility will be sent to the parent and the Part C Coordinator, unless I instruct the district not to share my child's information with the Part C Coordinator.

I hereby certify that I have been advised of and have received a copy of "Parent and Child Rights in Special Education."

I understand that my child's initial evaluation will be conducted within 60 days of my consent.

I understand that the granting of my consent is voluntary and may be revoked at anytime.

I understand that revocation of consent is not retroactive in that revocation does not negate an action that has occurred after the consent was given and before the consent was revoked.

I have been fully informed of all the relevant information for which consent is sought.

\_\_\_\_ I am aware of these rights, I **give** my permission for my child to be evaluated to determine if my child has a need for special education services.

\_\_\_\_ I am aware of these rights, I **do not give** my permission for my child to be evaluated to determine if my child has a need for special education services.

**CONSENT FOR EVALUATION (continued)**

Name of Child: \_\_\_\_\_

Birth date: \_\_\_\_\_

School: \_\_\_\_\_

Signature of Parent: \_\_\_\_\_

Date: \_\_\_\_\_

Interpreter: \_\_\_\_\_

# **APPENDIX G**

## **Preschool Checklists**

**Part B Preschool Initial Evaluation Checklist**

Activity	Accomplished
Provided parent with Prior Written Notice in their native language	
Provided parent with procedural safeguards in their native language	
Obtained written informed parental consent for evaluation	
A group of qualified professionals reviewed existing data (see checklist below)	
Lack of appropriate instruction and limited English proficiency were ruled out as factors	
Parents had input into identifying what additional data, if any were needed to determine whether the child is a child with a disability and the child's educational needs	
Followed T.E.A.M. guidelines in area of suspected disability	
The group determined that the data reviewed is sufficient to meet IDEA requirements and to make the determinations needed and has notified the child's parents of that determination and their right to request assessment	
The group determined that there is not enough data available to make the determinations needed	
If additional data is needed, assessments were administered and information was gathered following the T.E.A.M. guidelines in order to produce needed data	
Initial evaluation completed within 60 days of obtaining parental consent for evaluation	
A group of qualified professionals and the parent determined whether the child is a child with a disability in a specific disability category (autism deaf-blindness, etc.) and who by reason thereof, is in need of special education and related services	
Provided a copy of the evaluation report and the documentation of determination of eligibility to the parent and with parental consent to the FIT program	

**Part B Preschool Existing Data Review Checklist**

Data	Data is sufficient	Additional Data Needed
Data reviewed is current (within 6 months of consent for evaluation)		
Vision		
Hearing		
Multiple measures used (assessment tools, parent information, observational information from FIT Developmental Specialist and Therapists, Early Head Start, Child Care, etc.)		
Technically sound instrument(s) used		
Instrument provided information on cognitive development		
Instrument provided information on social/emotional development		
Instrument provided information on fine and gross motor development		
Instrument provided information in all areas of development including language and communication		
Instrument was nondiscriminatory on a racial and on a cultural basis		
Instrument administered in child's native language or other mode of communication		
Instrument used for purposes it is validated and reliable		
Instrument administered by trained, knowledgeable personnel in accordance with instructions provided by the producer of the instrument		
Functional information about the child provided		
Developmental information about the child provided		

Pre-school readiness information about the child		
Assessment information is available in all areas of the suspected disability		
Needed T.E.A.M. information is available		
Data is sufficient to determine if the child is a child with a disability		
Data is sufficient to determine the child's educational needs (special education & related services)		
Data is sufficient to determine child's present levels of preschool readiness and related developmental needs		

# **APPENDIX H**

## **Q & A Regarding Developmental Delay**



**STATE OF NEW MEXICO  
PUBLIC EDUCATION DEPARTMENT  
300 DON GASPAR  
SANTA FE, NEW MEXICO 87501-2786  
Telephone (505) 827-5800  
[www.ped.state.nm.us](http://www.ped.state.nm.us)**

HANNA SKANDERA  
SECRETARY OF EDUCATION

SUSANA MARTINEZ  
GOVERNOR

April 4, 2011

**MEMORANDUM**

**TO:** Special Education Directors  
Charter School Administrators  
Regional Education Cooperative Directors

**FROM:** Denise Koscielniak  
Special Education Director, Special Education Bureau

**RE: QUESTION AND ANSWER FOLLOW UP TO  
DEVELOPMENTALLY DELAYED AND RELATED SERVICES MEMO**

---

This memorandum has been issued to provide follow up clarification on special education in New Mexico, specifically in regards to the memorandum on the Developmentally Delayed (DD) classification and related services dated December 20, 2010. The information below addresses follow-up questions we have received from local education agencies and regional education cooperatives regarding the use of developmentally delayed and related services.

**Q:** How is it determined if a student has a disability under the Individuals with Disabilities Education Act (IDEA) or a Developmental Delay under Subsection B(4) of 6.31.2.7 of the New Mexico Administrative Code (NMAC)?

**A:** The Eligibility Determination Team (EDT) must determine that the student is a student with a disability, or in other words meets the IDEA or NMAC definition using the procedures set forth in the New Mexico Technical Evaluation Assessment Manual (NM TEAM), which is required under Department rules and standards. As a result of the disability, there must be an adverse effect on the student's educational performance to the degree that the student requires special education and related services. Being classified as DD will not in itself qualify a student for special education since there must be a showing that being developmentally delayed adversely affects educational performance.

**Q:** Should you be screening students for additional special education and related services who are already eligible for special education and related services?

**A:** No, you should not be screening all DD students who qualify for special education and related services for additional services. However, if a DD student can be classified under any other disability, the student can no longer be classified as DD. According to the IDEA 2004 commentary on page 46640, this would require a reevaluation: *"An initial evaluation of a child is the first complete assessment of a child to determine if the child has a disability under the Act, and the nature and extent of special education and related services required. Once a child has been fully evaluated, a decision has been rendered that a child is eligible for services under the Act, and the required services have been determined, any subsequent*

*evaluation of a child would constitute a reevaluation.*” The applicable IDEA regulations under 34 CFR §§ 300.303 – 300.305 must be followed.

Q: Should you be screening students who are typically developing for disabilities?

A: No, you should not be screening all students, only students who are suspected of being a child with a disability under the IDEA as part of your child find responsibilities under 34 CFR § 300.111. The use of developmental delay can only be used if you rule out the disabilities under the IDEA and meet the State’s criteria under Subsection B(4) of 6.31.2.7 and the NM TEAM.

Q: Can the student be determined to be eligible under DD for motor only?

A: No, services for motor only are considered a related service. If a child only needs a related service and not special education, the child is not considered to have a disability, and thus is not eligible to receive special education services. 34 CFR §300.8(a)(2)(i). The developmentally delayed classification may only be used as an option for students who do not qualify for special education under any other IDEA disability category in accordance with 6.31.2.10(F)(2)(a) NMAC.

Q. If motor is the only area of need, can they qualify and if “yes”, do you give them special education instruction (academic and functional goals) only in motor?

A: The answer is NO. The student must meet the criteria for a student with a disability which means that the student’s condition adversely affects educational performance to the degree that the student needs special education and related services.

Q: Can we write IEPs for fine and/or gross motor only for special education instruction?

A: No, OT/PT cannot be the only related service. OT and PT do not meet the definition of special education under Subsection B(18) of 6.31.2.7 NMAC. IEPs require both academic and functional goals.

Q: Under what circumstances is OT and/or PT added?

A: If the student has a disability under IDEA, then OT/PT would be a team decision. See 34 CFR §§300.303 - 300.306. You must obtain parental consent and provide the parent with prior written notice prior to any reevaluation or evaluation.

Q: How long might the special education teacher work on motor intervention prior to adding OT and/or PT?

A: This is an IEP team decision based on the specific needs of the child. PED cannot decide what time frame is appropriate, as each child’s IEP is specific to their educational program. OT and/or PT cannot be added to the IEP without parental consent, prior written notice, an evaluation, and a determination by the IEP team that the students needs this related service in order to benefit from special education.

Q: Can an OT or PT be the primary case manager if motor is the only area listed on the IEP?

A: No, OTs and PTs are not case managers, only special education teachers and Speech Language Pathologist (SLPs) (for speech-only) can be case managers. Subsection W of 6.29.1.7 NMAC states “Caseload means the total number of students receiving special education and speech-only services as special education, for whom a special education teacher or speech language pathologist has responsibility for developing and monitoring the student’s IEPs. Caseload may also mean the number of students for which individual support services staff members are responsible.” Also, see Subsection H of 6.29.1.9 NMAC regarding student/staff caseloads.

Q: If a student is identified as DD and the speech pathologist is the case manager, can the student receive OT and/or PT?

A: Students who are identified as Developmentally Delayed have received a full educational evaluation. An IEP is developed to address the area(s) of delay. Those students must have a teacher as the case manager. However, students who qualify for speech only services in accordance with Subsection B(18)(b) of 6.31.2.7 NMAC are assigned case managers (SLPs) in accordance with Subsection H(1)(2) of 6.29.1.9 NMAC. Students identified as speech only should not be receiving any other related services such as OT and PT. If there are additional concerns or delays, an evaluation or reevaluation should be completed after parental consent and prior written notice.

If you have any questions regarding this memorandum, please call (505) 827-1457 and ask to speak with the staff member assigned to your district.

DK/ss

cc: Dr. Sheila Hyde, Deputy Secretary, Learning and Accountability  
Dr. Kristine Meurer, Acting Assistant Secretary, Student Success Division  
Mr. Michael M. Vallejo, Deputy Director, Special Education Bureau  
Ms. Sandra Schwarz, Education Administrator, Special Education Bureau  
District Superintendents

# **APPENDIX I**

## **Clarification on Special Education in New Mexico: Developmentally Delayed and Related Services**



STATE OF NEW MEXICO  
PUBLIC EDUCATION DEPARTMENT  
300 DON GASPAR  
SANTA FE, NEW MEXICO 87501-2786  
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DR. SUSANNA M. MURPHY  
SECRETARY OF EDUCATION

BILL RICHARDSON  
Governor

December 27, 2010

**MEMORANDUM**

**TO:** Special Education Directors  
Charter School Administrators  
Regional Education Cooperative Directors

**FROM:** Denise Koscielniak   
Special Education Director, Special Education Bureau

**RE: CLARIFICATION ON SPECIAL EDUCATION IN NEW MEXICO:  
DEVELOPMENTALLY DELAYED AND RELATED SERVICES**

---

This memorandum has been issued to provide clarification on special education in New Mexico, specifically in regards to Developmentally Delayed classification and related services. In accordance with 34 CFR § 300.8, there are thirteen disabilities a child can be determined to have: Autism, Deaf-blindness, Deafness, Emotional disturbance, Hearing impairment, Mental retardation (Intellectual disability), Multiple disabilities, Orthopedic impairment, Other health impairment, Specific learning disability, Speech or language impairment, Traumatic brain injury, and/or Visual impairment (including blindness). The Individuals with Disabilities Education Act (IDEA) defines special education, under 34 CFR §300.39 (a)(2)(i):

- (2) *Special education* includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section –
- (i) Speech-language pathology services, or any other related service, if the service is considered special education rather than a related service under State standards;

In New Mexico, as defined under State standards, “**Special education**” means specially designed instruction, at no cost to the parents, to meet the unique needs of a child 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.

- (a) As authorized by 34 CFR §300.8(a)(2)(ii) and 300.39 (a)(2)(i), “special education” in New Mexico may include speech-language pathology services.
- (b) Speech-language pathology services must meet the following standards to be considered special education:
  - (i) The service is provided to a child who has received appropriate tier I universal screening under Subsection D of 6.29.1.9 NMAC as it may be amended from time to time, before being properly evaluated under 34 CFR §300.301-300.306 and Subsection D of 6.31.2.10 NMAC;
  - (ii) the IEP team that makes the eligibility determination finds that the child has a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child’s educational performance; and

- (iii) the speech language pathology service consists of specially designed instruction that is provided to enable the child to have access to the general curriculum and meet the educational standards of the public agency that apply to all children; and
  - (iv) the service is provided at no cost to the parents under a properly developed IEP that meets the requirements of Subsection B of 6.31.2.11 NMAC.
- (c) **If all of the above standards are met, the service will be considered as special education rather than a related service.** [6.31.2.7 (B)(18)(a-c) NMAC]

These students are to be reported in STARS, in accordance with State standard 6.29.1.9 (H) NMAC, Student/staff caseloads in gifted and special education.

- (1) The student/staff caseload shall not exceed 35:1 for a special education teacher and 60:1 for a speech-language pathologist for special education services or speech-only services, in which properly licensed special education teachers or speech-language pathologists travel from class to class or school to school, providing services to students with disabilities whose individualized education programs (IEPs) require a minimal amount of special education. (A minimal amount of special education services shall not exceed 10 per cent of the school day/week.)
- (2) The student/staff caseload shall not exceed 24:1 for a special education teacher and 35:1 for a speech-language pathologist for special education services or speech-only services which properly licensed special education teachers or speech-language pathologists provide to students with disabilities whose IEPs require a moderate amount of special education. (A moderate amount of special education services shall be less than 50 per cent of the school day.)

The staff assignment code in STARS that is to be used for such students is Code #95, Related Service Provider Acting as Caseload Manager or Related Service Teacher.

The definition of “**developmentally delayed**”, as per Subsection 6.31.2.7 (B)(4) NMAC, means a child aged 3 through 9 or who will turn 3 at any time during the school year: with documented delays in development which are at least two standard deviations below the mean on a standardized test instrument or 30 percent below chronological age; and who in professional judgment of the IEP team and one or more qualified evaluators needs special education and related services in at least one of the following five areas: communication development, cognitive development, physical development, social or emotional development or adaptive development. Use of the developmentally delayed option by individual local education agencies is subject to the further requirements of Paragraph 2 of Subsection F of 6.31.2.10 NMAC. Local education agencies must use appropriate diagnostic instruments and procedures to ensure that a child qualifies as a child with developmental delay in accordance with the definition in this paragraph.

Furthermore, regarding eligibility determinations, Subsection (F)(2) of 6.31.2.10 NMAC states:

- (2) Optional use of developmentally delayed classification for children aged 3 through 9
  - (a) The developmentally delayed classification may be used at the option of individual local education agencies but may only be used for children who do not qualify for special education under any other disability category.
  - (b) Children who are classified as developmentally delayed must be reevaluated during the school year in which they turn 9 and will no longer be eligible in this category when they become 10. A student who does not qualify under any other available category at age 10 will no longer be eligible for special education and related services.

A special rule for eligibility determination, as defined under 34 CFR § 300.306 (b), in which a child must not be determined to be a child with a disability would be if the determinant factor is:

- (i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);
  - (ii) Lack of appropriate instruction in math; or
  - (iii) Limited English proficiency; and
- (2) If the child does not otherwise meet the eligibility criteria under § 300.8(a).

A student with a disability who only needs a related service, as defined under 34 CFR § 300.34, and not special education as defined above, is not eligible under the IDEA, and hence is not eligible to receive related services thereunder. As per 34 CFR § 300.8(a)(2)(i)&(ii): (i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under §§ 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs related service and not special education, the child is not a child with a disability under this part. (ii) If, consistent with §300.39 (a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

If you have any questions regarding the additional documentation, please call the SEB at (505) 827-1457 and ask to speak with the staff member assigned to your district.

DK/ss

cc: Dr. Sheila Hyde, Deputy Secretary, Learning and Accountability  
Dr. Kristine Meurer, Acting Assistant Secretary, Student Success Division  
District Superintendents

# **APPENDIX J**

## **MOU Work Sheet**

The MOU Work Sheet is a tool, usable in several ways. A Transition Team with an existing Memorandum of Understanding can utilize the ~~attached~~ document to ensure the current MOU embeds the recommended contents of an Early Childhood Transition Team Memorandum of Understanding.

A Transition Team creating a Memorandum of Understanding for the first time, or for a team creating a new agreement, the work sheet will serve as a template for the development of the MOU. After completing the MOU, you can delete the text appearing in color leaving you with a document ready for signatures.

It is recommended that the components represented in this tool be discussed at least annually, at one of the periodic meetings you have scheduled after the implementation of the agreement.

## EARLY CHILDHOOD TRANSITION TEAM MEMORANDUM OF UNDERSTANDING

**NOTE:** The development of agreements is best made with a face-to-face meeting of the parties involved. If some organizations need procedures that the others do not need, that can be addressed individually within the text of the agreement or by an attachment of the differences and signed by that agency representative.

### TEAM MEMBERS

The heading of the Memorandum of Understanding (MOU) must contain the names of all the organizations/agencies that are a part of the agreement and will be signing the agreement.

#### **I. PURPOSE**

This is an important part of the MOU. It sets the stage and tone of the contents of the MOU. List the outcomes that are to be expected as a result of this agreement such as a smooth transition of children from the Family Infant Toddler (FIT) Program to other agency supports and services and transitioning children within the required timelines. Another outcome might be that the agreement will be used by personnel of the organizations and families to understand the transition process in their area. We would anticipate that there is more than one expected purpose.

Define who the children and families are such as children by age, program, etc.

## **II. DESCRIPTION OF THE INVOLVED AGENCIES**

All the agencies listed in the heading should be listed as well as the service they represent in this agreement such as Head Start, Local Education Agency (LEA), Early Intervention, State supported schools, etc.

What is the geographic area that this agreement covers such as county, city, only one school district?

## **III. REQUIREMENTS IMPACTING THIS AGREEMENT**

List Federal and/or State transition laws by using the title of the law and numbers if applicable. Also, list any agency transition requirements. There might also be Program Operations Guidelines that pertain to transition.

## **IV. DEFINITION OF TERMS**

Do not assume that everyone knows the terms used in the agreement. There may be families and new providers who will be using the agreement for the transition process and not be familiar with the terminology used. Terms to define might be IEP, IFSP, Sending Agency, Receiving Agency, Etc.

## **V. WORKING PROCEDURES AND TIMELINES**

This should describe when, where, what, how and who is responsible for the various activities to make a successful transition from one program to another. Who are the referral and receiving agencies and what do they do when? This information might be included in an attachment to the agreement. If so, make sure that is stated and that it is attached to the agreement.

## **VI. IMPLEMENTATION OF AGREEMENT**

How will copies of the agreement be provided to those who will use it in the transition process? When and how will families, the appropriate staff of the agencies involved, and independent providers be informed and trained on the contents of the agreement.

## **VII. MONITORING AND EVALUATION OF THE AGREEMENT**

State who will make sure the agreement is working. When and how will the effectiveness be evaluated? State how changes will be made to the agreement based on the findings of this monitoring and evaluation. What criteria will you use to evaluate that the agreement is a valid, functioning part of the transition system?

**VIII. INTERAGENCY DISPUTE PROCESS**

State the details of how disputes/conflicts between the agencies signing this agreement will be resolved. What is the timeline for resolution?

**IX. DURATION**

State the specific beginning and ending dates of this agreement such as April 1, 2004 through March 31, 2005. When will the review take place to update for a new agreement?

**X. RESPONSIBILITIES IN TRANSITION PROCESS**

<b>NOTIFICATION</b>			
<p><b>NOTIFICATION:</b> FIT providers must notify the LEA of children who reside in the LEA’s educational jurisdiction and who are potentially eligible for Part B services. For this purpose, potentially eligible is considered those children eligible under the Part C’s —established condition or —developmental delay category. The list should include children who will turn three within the next 12 months*.</p>			
<p><b>NMAC 7.30.8.13 TRANSITION (B)</b> In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.</p>			
<p><b>NMAC 6.31.2.11 (A) (5) (a)</b> Each LEA shall survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA’s Part B preschool program in future years.</p>			
<p><u>Questions To Consider</u></p> <p>How will FIT Provider(s) notify the LEA(s) of children they are currently serving who may be potentially eligible for Part B services and are approaching the age of eligibility?</p> <p>Who in the FIT Provider agency will be responsible for the notification?</p> <p>Who in the LEA will be responsible for receiving and documenting the information?</p> <p>When specifically in quarter will the information be shared? (month/day)</p> <p>How will the information be shared and how often? (mail, email, fax, etc.)</p> <p>What will happen when children enter early intervention late and are approaching the age of eligibility?</p>			
FIT PROVIDER	LEA	HEAD START	OTHER

## TRANSITION PLANNING

**TRANSITION PLANNING:** By 24 months of age, but at least 6 months prior to the beginning of the school year in which the child turns three, the service coordinator meets with the family to identify and document the specific steps and actions that will support the child and family through the transition process. These individualized steps and actions are documented on the transition plan and are included in the IFSP.

### NMAC 7.30.8.13

- A. Transition planning shall begin early enough to allow the parents to exercise all their rights under state and federal statutes and regulations. Transition planning must be undertaken for each child and family at least 6 months before the child is eligible to transition from early intervention services. Transition planning shall be a process involving meeting(s) and progressive steps toward the smooth and effective transitioning of each child and family.
- B. In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.
- C. Steps/actions shall be identified and included in the IFSP that support the child and family and ensure a smooth and effective transition. With involvement of the parents, such steps/actions shall include, at a minimum:
  - 1. Discussions with the parents regarding future program/service options to include preschool special education services and other community services that may be available and appropriate; representatives from these programs and services shall be included in these discussions to ensure an informed decision;
  - 2. Preparing the child and family for the changes and adjustments to a new setting;
  - 3. With parental consent and in accordance with regulation, the transmission of information, including evaluation and assessment information and copies of IFSPs to ensure continuity of services.
  - 4. Assisting parents/families to develop the skills and acquire the information needed for continued advocacy of their child's needs.

### Questions To Consider

How will the FIT Service Coordinator support families in understanding the transition process?

How does a FIT Service Coordinator support family understanding of program options?

How will LEA coordinate with FIT providers to facilitate visits by families to classrooms and/or learn about services provided?

Are there other ways the LEA supports transition planning (available for questions, family nights, brochures, participation opportunities, etc.)?

FIT PROVIDER	LEA	HEAD START	OTHER

## REFERRAL TO LEA

**REFERRAL TO LEA:** The Transition Referral Form should be sent at least 60 days prior to the Transition Conference, and if possible at least six months prior to the child's third birthday. To support the use of Part C information in determining Part B eligibility, the FIT Transition Assessment Summary Form will be completed and sent to the LEA at least 30 days prior to the Transition Conference.

**NMAC 7.30.8.13 TRANSITION (B)** In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.

**NMAC 6.31.2.11 (A) (4) (a)** Each LEA shall survey Part C programs within its educational jurisdiction in its child find efforts to identify children who will be eligible to enter the LEA's Part B preschool program in future years.

### Questions To Consider

Whom from the FIT program will get parent consent and send the Transition Referral Form to the LEA?

How will the referral be sent? (mail, email, fax, etc.)

When will the referral be sent to the LEA? (At least 60 days prior to conference and if possible 6 months prior to 3rd birthday)

Who from the LEA will confirm and document receipt of referral?

How will late referrals be handled by both FIT and the LEA?

How will referrals be addressed over the summer?

FIT PROVIDER	LEA	HEAD START	OTHER

## PLANNING FOR TRANSITION CONFERENCE

**TRANSITION PLANNING:** At least 30 days prior to Transition Conference, Service Coordinator will coordinate a date with parents, FIT, LEA, and community partners. A written invitation to the Transition Conference will be sent to the LEA and all parties. The FIT Transition Assessment Summary Form will be completed and sent to the LEA. The LEA will review materials they receive and determine who will attend the conference.

### NMAC 7.30.8.13

- A. Transition planning shall begin early enough to allow the parents to exercise all their rights under state and federal statutes and regulations. Transition planning must be undertaken for each child and family at least 6 months before the child is eligible to transition from early intervention services. Transition planning shall be a process involving meeting(s) and progressive steps toward the smooth and effective transitioning of each child and family.
- B. In a timely manner, the early intervention provider shall notify the local education agency of children that reside in the geographic area served by the LEA that may be eligible for preschool special education services.
- C. Steps/actions shall be identified and included in the IFSP that support the child and family and ensure a smooth and effective transition. With involvement of the parents, such steps/actions shall include, at a minimum:
  - 1. Discussions with the parents regarding future program/service options to include preschool special education service and other community services that may be available and appropriate; representatives from these programs and services shall be included in these discussions to ensure an informed decision;
  - 2. Preparing the child and family for the changes and adjustments to a new setting;
  - 3. With parental consent and in accordance with regulation, the transmission of information, including evaluation and assessment information and copies of IFPS to ensure continuity of services.
  - 4. Assisting parents/families to develop the skills and acquire the information needed for continued advocacy of their child's needs.

### Questions To Consider

How will scheduling of the Transition Conference be coordinated?

How will information and communication take place between all parties involved?

Who will be writing and sending the written invitations to the Transition Conference?

When will the written invitations be sent?

Who at the LEA will receive the invitation?

How will other relevant potential providers (NMSD, NMSBVI, Head Start, etc.) be included?

How will information, communication, and completion of activities be documented and by whom?

Who is responsible to complete, get parent consent, and send the Assessment Summary Form?  
 What “pertinent” information will be sent and attached to the Assessment Summary Form?  
 When is the Assessment Summary Form send and how?  
 To whom will the Assessment Summary Form be sent?  
 Who at LEA is responsible for the Assessment Summary Form and documentation of receipt?  
 How will the LEA review the information and plan for the Transition Conference?  
 What will be the procedures for children who turn three over the summer?

FIT PROVIDER	LEA	HEAD START	OTHER

## TRANSITION CONFERENCE

**TRANSITION CONFERENCE:** The FIT program is legally responsible for convening the Transition Conference. It is the responsibility of the Service Coordinator to invite an LEA representative to the Transition Conference with the approval of the family.

### NMAC 7.30.8.13 (F) TRANSITION

With approval of the parents, a transition conference shall be convened at least 90 days prior to the anticipated date of transition from early intervention services but no later than 90 days prior to the child’s third birthday. If the child may be eligible for preschool services, including special education and related services offered through the local education agency, this conference shall include, at a minimum, the parents, the relevant early intervention service providers, and the local education agency representative(s). Other relevant service providers should be invited to attend this meeting. The transition process must take into account availability of Head Start and other childcare services in the community.

**Subsection (A)(5)(e) of NMAC 6.31.2.11** states that “Each LEA shall participate in transition planning conferences arranged by the designated Part C lead agency no less than 90 days prior to the anticipated transition or the child’s third birthday, whichever occurs first, to facilitate informed choices for all families.”

Questions To Consider

- How will the Service Coordinator conduct the meeting (agenda, time frame, etc.)?
- Who from the LEA will participate in the Transition Conference?
- What forms and information will be shared?
- How and when will LEA obtain parental consent to conduct initial evaluation?
- How and when will LEA schedule a date for qualified professionals and parents to review existing data as part of the process for determining eligibility?
- How and when will LEA schedule further evaluation activities if needed?
- What happens if parent is not ready to proceed with eligibility determination during the conference?
- What happens if any party is unable to attend the Transition Conference?

FIT PROVIDER	LEA	HEAD START	OTHER

**INITIAL COMPREHENSIVE EVALUATION FOR PART B**

**INITIAL EVALUATION FOR PART B: The LEA is responsible for obtaining written informed parental consent and conducting the evaluation within 60 days. The purpose of the initial evaluation is to determine if the child is a child with a disability, and if the child requires special education and related services to benefit from the education program.**

**34CFR § 200.301 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 parent of a child or a public agency may initiate a request for an initial evaluation to determine if a child is a child with a disability.

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

(1)(i) Must be conducted within 60 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.

Questions To Consider

Who from the LEA is responsible for conducting the initial evaluation and documentation?  
How will a group of qualified professionals from the LEA review existing information?  
How will the parent have input?  
If additional data and assessment are needed, how will the LEA coordinate activities?  
If needed, how will NMSBVI and NMSD be involved?  
When and where is the eligibility determination meeting held?  
Who sends and who are the recipients of the Evaluation Report and Documentation?

FIT PROVIDER	LEA	HEAD START	OTHER

**ELIGIBILITY DETERMINATION AND PARENT CHOICE**

**ELIGIBILITY DETERMINATION** 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.

**NMAC 6.31.2.11 (A)(5)(f)** Each LEA shall designate a team including parents and qualified professionals to review existing evaluation data for each child entering the LEA’s preschool program in compliance with 34 CFR Sec. 300.305, and based on that review to identify what additional data, if any, are needed to determine the child’s eligibility for Part B services or develop an appropriate program.

**NMAC 6.31.2.10**

F. Eligibility determinations.

(1) General rules regarding eligibility determinations

- a. Upon completing the administration of tests and other evaluation materials, a group of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in 34 CFR Sec. 300.8 and Paragraph (2) of Subsection B of 6.31.2.7 NMAC. The determination shall be made in compliance with all applicable requirements of 34 CFR Sec. 300.306....
- b. The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

Questions to Consider

How will the LEA meet to determine eligibility?  
How will the parents be involved in the process?  
How will FIT be involved in the process?

FIT PROVIDER	LEA	HEAD START	OTHER

**EVALUATION REPORT AND DOCUMENTATION OF ELIGIBILITY SENT TO PARENT**

EVALUATION REPORT AND DOCUMENTATION OF ELIGIBILITY WILL BE SENT TO THE PARENT by the child's third birthday. With parental consent, LEAs have the option to share this information with the FIT provider. Although this is encouraged, it is not required.

**NMAC 6.31.2.10**

Eligibility determinations.

(1) General rules regarding eligibility determinations

- (a) The public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

Questions to Consider

Who sends and who are the recipients of the Evaluation Report and Documentation?

FIT PROVIDER	LEA	HEAD START	OTHER

# INDIVIDUALIZED EDUCATION PROGRAM (IEP) DEVELOPED

IEP DEVELOPED by the child's third birthday, and at least 15 days prior to the child's entry into Part B services.

**Federal Regulation**

**§300.124 Transition of children from the Part C program to preschool programs**

The State must have in effect policies and procedures to ensure that –

- (b) By the third birthday of a child described in paragraph (a) of this section, and IEP or, if consistent with § 300.323(b) and section 636(d) or the Act, and IFSP, has been developed and is being implemented for the child consistent with § 300.101(b).

**§300.323 When IEPs must be in effect.**

- (a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.
- (b) IEP or IFSP for children aged three through five. (1) In the case of a child with a disability aged three through five (or at the discretion of the SEA, a two year-old child with a disability who will turn age three during the school year), the IEP Team must consider and IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementation regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is –
  - i. Consistent with State policy; and
  - ii. Agreed to by the agency and the child's parents.

**Questions to Consider**

Who from the LEA is responsive for developing the IEP?  
 How and when will the LEA inform the parents of their right to invite other representatives (FIT, Head Start, etc.) to the IEP meeting?  
 If needed, how will NMSBVI and NMSD be involved?  
 How and when will FIT and others be invited to the IEP meeting with parental consent?  
 When invited, how will FIT coordinate participation of appropriate early intervention staff in the IE meeting?

FIT PROVIDER	LEA	HEAD START	OTHER

IN WITNESS WHEREOF, the following signatures are affixed:

**SIGNATURES/DATES**

Make sure that all the parties to the agreement sign and date it. All the parties listed in the heading of the agreement must sign. Without a signature to the agreement, the agency is not accountable. Assure that a person in authority from the agency is signing the agreement. The agreement can be signed at a meeting with the agencies involved.

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Agency Name	Person Signing	Role/Title	Date
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Agency Name	Person Signing	Role/Title	Date
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Agency Name	Person Signing	Role/Title	Date
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