

**INTERAGENCY
EARLY CHILDHOOD TRANSITION AGREEMENT
BETWEEN
DEPARTMENT OF CHILDREN, YOUTH, & FAMILIES (DCYF)
AND
OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (OSPI)**

THIS INTERAGENCY AGREEMENT (Agreement) is made and entered into by and is between the DEPARTMENT OF CHILDREN, YOUTH, & FAMILIES, hereinafter referred to as "DCYF," and OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION, hereinafter referred to as "OSPI".

IT IS THE PURPOSE OF THIS AGREEMENT TO:

- A. Serve as a source document for DCYF and OSPI to develop and disseminate materials, and to provide individual and joint training and/or technical assistance to County Lead Agencies (CLAs), Early Support for Infants and Toddlers Provider Agencies (ESIT PA), Tribal Sovereign Nations, and Local Education Agencies (LEAs) on early childhood transition.
- B. Outline the procedures for the transition of toddlers with developmental delays, disabilities, and qualifying diagnoses from Part C to Part B services, ensuring that Part B eligible toddlers experience a smooth and effective transition to preschool services, as authorized in *34 CFR §303.209 (a)(3)(i)(A) and WAC 392-172A-02080*.
- C. Ensure families' rights to services for which they are eligible; to outline responsibilities of and coordination and communication among DCYF- ESIT State Leadership Office, OSPI, LEAs, CLAs, and ESIT Provider Agencies in implementing transition requirements; and to establish uniformity statewide that shall provide a coordinated, unduplicated, and seamless system for transitioning toddlers with developmental delays, disabilities or qualifying diagnoses, according to the Parts B and C of IDEA. *20 USC §1412 et seq., 34 CFR §300 et seq. and 20, USC §1431 et seq., 34 CFR §303 et seq.*
- D. Encourage cooperation and communication between DCYF-ESIT, OSPI, LEAs, CLAs, ESIT Provider Agencies, Tribal Sovereign Nations, and families to ensure the provision of a Free Appropriate Public Education (FAPE) by a toddler's third birthday, as authorized in *20 USC §1412(a)(9), 34 CFR, §300.124, and WAC 392-172A-02080*.
- E. Promote the ongoing development and implementation of a family-centered, statewide framework that supports coordinated, effective, equitable, and culturally and linguistically responsive early childhood transitions from early support services (IDEA Part C) to preschool special education services (IDEA Part B) and/or the Early Childhood Education and Assistance Program (ECEAP), Head Start and other high-quality early childhood settings including early care and education services provided by Tribal Sovereign Nations that provide an inclusive environment for delivery of services.
- F. Establish parameters associated with regulatory sharing of information between DCYF's ESIT Program and the Special Education Division within OSPI regarding toddlers who are potentially eligible for IDEA Part B preschool special education services. OSPI Special

Education Divisional leaders will in turn share the information with the appropriate Educational Service District (ESD). *34 CFR §303.209*

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. PARTIES

- 1.1. This Agreement is entered into pursuant to requirements of *IDEA 34 CFR §303.209(a)(3)(i)* between DCYF ESIT Program, the State Lead Agency (SLA) for Part C, and Office of Superintendent of Public Instruction (OSPI), Special Education, the State Educational Agency (SEA) for Part B.
- 1.2. Oversight Responsibility
 - (a) DCYF is responsible for oversight of ESIT Provider Agency compliance with IDEA Part C and ESIT policies and procedures. This includes, but is not limited to, conducting comprehensive compliance monitoring and the provision of training and technical assistance in partnership with four designated County Lead Agencies (CLAs), regarding transition requirements for children ages birth through two years of age under IDEA Part C.
 - (b) OSPI is responsible for oversight of LEA compliance with IDEA Part B and OSPI policies and procedures. This includes, but is not limited to, conducting systems and accountability monitoring and the provision of technical assistance, regarding transition requirements under IDEA Part B.
- 1.3. Joint Responsibilities - DCYF and OSPI will:
 - (a) Collaborate with and actively engage leaders in the DCYF Office of Tribal Relations and OSPI Office of Native Education to ensure state and local implementation of flexible programming that honors the unique traditions and perspectives of tribes as children of native heritage transition from early support services to special education preschool services.
 - (b) Notify CLAs, ESIT Provider Agencies, LEAs, advisory networks, and technical assistance providers of this agreement and how to access this source document on DCYF and OSPI websites.
 - (c) Invite partner agencies to statewide meetings as appropriate for cross training or education and share training materials developed by the agencies or their professional development/technical assistance agents.
 - (d) Promote individualized, family-centered, and culturally responsive early childhood transition planning in preparation, implementation, and reflection of transition planning conferences.
 - (e) Review this agreement annually to determine if modifications are needed.
- 1.4. Advisory Council Memberships: DCYF and OSPI will promote and offer the opportunity to engage in cross representation of state-level advisory memberships among the IDEA Part C State Interagency Coordination Council (SICC), Indian Policy Early Learning Committee, and the IDEA Part B State Special Education Advisory Council (SEAC) through an annual invitation by current chairs of the respective councils.

2. AGREEMENT MANAGEMENT

2.1. The Agreement Manager for each of the Parties shall be the contact person for all communications regarding the performance of this Agreement. Agency and Agreement Manager information for this Agreement is as follows:

2.2.

OSPI BUSINESS ADDRESS	DCYF BUSINESS ADDRESS
Office of Superintendent of Public Instruction Old Capitol Building PO Box 47200 Olympia, WA 98504-7200 TIN: 91-6001112 UBI: 342-008-830	Department of Children, Youth, & Families PO Box 40970 Olympia, WA 98504-0970 TIN: 75-3214740 UBI: 602-605-520
OSPI AGREEMENT MANAGER	DCYF AGREEMENT MANAGER
Ryan Guzman Section 619 Program Coordinator ryan.guzman@K12.wa.us Phone: (360) 725-6075	Tammy McCauley Accountability & Quality Improvement Manager Tammy.mccauley@dcyf.wa.gov Phone: (509) 655-0054

2.3. Each Party shall notify the other Party in writing within ten business days of any changes to the name and contact information regarding either Party's designated Agreement Manager.

3. EXHIBITS AND ATTACHMENTS

Attached hereto and incorporated herein as though set forth in full are the following exhibit and attachment:

- 3.1. Exhibit A - Statement of Work
- 3.2. Attachment 1 - Washington's Definition of "Potentially Eligible" for Part B Services, with Tables 1 & 2

4. AUTHORITY

DCYF and OSPI are authorized to enter into this Agreement by Chapter 39.34 RCW. DCYF ESIT is further complying with the IDEA 34 CFR §303.209(a)(3)(i)(A), which requires an interagency agreement on early childhood transition when the State Education Agency is not the State Lead Agency for the early support program.

5. PERIOD OF PERFORMANCE

This Agreement shall become effective on July 1, 2023, and shall remain in force and effect until December 31, 2028, unless terminated or further amended with thirty days' notice by either Party. This Agreement will be reviewed annually to determine if modifications are needed.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended, including an amendment to extend the period of performance, by mutual agreement of the Parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the Parties.

7. DISPUTES

Parties are encouraged to resolve disputes at the lowest possible level. Any dispute that cannot be resolved at the lowest possible level should first be directed, in writing, to the State Superintendent of OSPI and the Secretary of DCYF. If resolution is not achieved at the agency level, it shall be determined by a Dispute Board in the following manner:

- 7.1. Each Party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the facts, Agreement terms, applicable statutes and rules, and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on both Parties.
- 7.2. The cost of resolution shall be borne as allocated by the Dispute Board.
- 7.3. As an alternative to this process, either of the Parties may request intervention by the Governor, as provided by *RCW 43.17.330*, in which event the Governor's process shall control.

8. TERMINATION

Either Party may terminate this Agreement upon 30 days' prior written notification to the other Party. If this Agreement is so terminated, the Parties shall be liable only for performance rendered in accordance with the terms of this Agreement prior to the effective date of termination.

9. COMPLIANCE WITH LAWS

The Parties agree that all activity pursuant to this Agreement shall be in accordance with all applicable current federal, state, and local laws, rules, and regulations, including but not limited to, 20 USC Section 1400 et seq, Chapter 39.34 RCW (the interlocal Cooperation Act), all applicable non-discrimination laws, and, if applicable, Chapter 42.56 RCW (the Public Records Act), 5 U.S.C. 522 (the Freedom of Information Act), and Chapter 40.14 RCW (Records Retention Act).

10. CONFORMANCE

If any provision of this Agreement violates any applicable federal or Washington statute, regulation, or rule of law, that provision is considered modified to conform to that statute, regulation, or rule of law.

11. WAIVER

A failure by either Party to exercise its rights under this Agreement shall not preclude that Party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by the authorized representatives of the Parties and attached to the original Agreement.

12. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement, which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

13. ALL WRITINGS CONTAINED HEREIN

This Agreement, including the referenced exhibit and attachment, contains all the terms and conditions agreed upon by the Parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

**Office of Superintendent of
Public Instruction**

**DEPARTMENT OF CHILDREN,
YOUTH, AND FAMILIES**

Signature

Ryan Guzman

Signature

Robin Atwood

Name

619/ECSE Coordinator

Name

Contract Specialist

Title

12/12/2023

Title

12/13/2023

Date

Ryan Guzman

Date

Robin Atwood

1. DEFINITIONS

- 1.1. Department of Children, Youth, and Families (DCYF) means the State Lead Agency (SLA) and its employees and authorized agents. *34 CFR §303.22 and WAC 110-4000001*
- 1.2. Early Support Services means developmental services that are (a) provided under public supervision, (b) selected in collaboration with the parents, (c) provided according to ESIT's System of Payments and Fees Policy, (d) designed to meet the developmental needs of an infant or toddler with a disability and the needs of the family, (e) designed to assist appropriately in the infant's or toddler's development, and (f) provided in natural environments in conformity with an IFSP. *34 CFR §303.13*
- 1.3. ESIT Provider Agency (ESIT PA) means any ESIT-approved organization, public, private, tribal or non-profit entity, or school district that provides all early support services, whether or not the entity receives funding from the ESIT program. *WAC 110-400-0030*
- 1.4. Early Support for Infants and Toddlers (ESIT) Program means the statewide program of DCYF, with the general supervisory authority over the implementation of IDEA, Part C, early intervention services to eligible infants and toddlers aged birth to 3 and their families.
- 1.5. Evaluation for Part B of IDEA means the procedures used that include a review of data and additional assessments, if needed, to determine whether a student is eligible for special education and related services under Part B of the IDEA. The district selects the members of the evaluation group needed to conduct the evaluation. To meet eligibility, a student has a disability that is defined in the state special education regulations, the disability has an adverse educational impact, and the student needs specially designed instruction. *34 CFR §300.15; WAC 392-172A-01070 and 01035; WAC 392-172A-0305 through-03080; WAC 392-172A-04010*
- 1.6. Evaluation for Part C of the IDEA means a timely, comprehensive, multidisciplinary process to determine eligibility for early support services under Part C. This includes administering an evaluation instrument, taking the child's history including interviewing the parent, identifying the child's level of functioning in all developmental areas, gathering information from other sources to understand the child's unique strengths and needs, and reviewing medical, educational, and other records. *34 CFR §303.321*
- 1.7. Family Resources Coordinator (FRC) means the person responsible for coordination and case management of early support services for infants and toddlers and their families. *34 CFR §303.34*
- 1.8. Free Appropriate Public Education (FAPE) means special education and related services provided to students aged 3 to 21 that meet state standards and are provided through the development of an individualized education program. These services are provided at public expense under public supervision and direction, without charge to the parents. *34 CFR §300.101; WAC 392-172A-02000; WAC 392-172A-01080*
- 1.9. Individualized Education Program (IEP) means a written statement of an educational program that is developed, reviewed, or revised in accordance with applicable federal and state laws for providing special education services to students who are eligible for special education. The IEP includes the special education and related services, and modifications and supports needed for the student to participate or appropriate activities for preschool. *34 CFR §300.320; WAC 392-172A-03090*
- 1.10. Individualized Education Program Team or IEP Team means a group of individuals consistent with *WAC 392-172A-03095* that includes parents, district staff, others invited by the district or parent, and, at the request of the parent, the Part C Family Resources Coordinator (FRC).
- 1.11. Individualized Family Service Plan (IFSP) means the written plan required for providing early support services to an eligible infant or toddler and the child's family. *34 CFR §303.344*

- 1.12. Individualized Family Service Plan Team or IFSP Team means the infant or toddler's family; Family Resources Coordinator; ESIT Service Provider(s), and others, as identified on the Individualized Family Service Plan. *34 CFR §303.343.*
- 1.13. Individuals with Disabilities Education Act (IDEA) means the federal law that addresses the requirements for identifying, evaluating, and serving eligible students. *20 USC §1400 et seq.*
- (a) Part C of the act addresses early support services for eligible infants and toddlers, ages birth to 3.
- (b) Part B of the act addresses special education and related services for eligible students, ages 3 to 21.
- 1.14. Local Education Agency (LEA) means the school district responsible for IDEA services to resident children or students under IDEA Part C or Part B. *34 CFR §303.23; WAC 392-172A-01115.*
- 1.15. Office of the Superintendent of Public Instruction (OSPI) means the State Education Agency (SEA), which has general supervisory authority over the implementation of special education and related services under IDEA Part B. The special education section of OSPI is responsible for state implementation of IDEA Part B. *34 CFR §303.36*
- 1.16. Potentially Eligible means toddlers eligible for Part C services who may be eligible for special education and related services under IDEA Part B (and further defined in Attachment 1, incorporated by reference). This potentially eligible notification is the referral request for an initial evaluation to determine if the child is eligible for special education preschool services. *WAC 110-400-0030; WAC 392-172A-03005*
- 1.17. Transition means the process to transfer services and supports for toddlers with disabilities from Part C to Part B.
- 1.18. Transition Plan means a document that is part of the IFSP for all infants and toddlers, including those who are potentially eligible for Part B services. The plan must include Part C program options, steps, and potential services that may assist in transition.
- 1.19. Parent Consent means informed written consent for conducting eligibility activities including evaluations and for the start of the provision of services. *See WAC 392-172A-03000 Parental consent for initial evaluations, initial services and reevaluations. (1)(a) A school district proposing to conduct an initial evaluation to determine if a student is eligible for special education services must provide prior written notice consistent with WAC 392-172A-05010 and obtain informed consent from the parent before conducting the evaluation. (b) Parental consent for an initial evaluation must not be construed as consent for initial provision of special education and related services.*
- 1.20. Parental Opt-Out Policy means a provision permitting parents to opt out of the otherwise required notification/referral disclosure of their toddler's potentially eligible for Part B preschool services status, including the disclosure of personally identifiable information. If there were subsequent parental concerns after implementation of the parental out-out provision, the parent may contact their local resident school district directly to access Child Find and Referral supports. *34 CFR §303.209 and 303.401(e)*

2. SCOPE OF WORK

The Parties agree to coordinate at the state level to ensure that implementation of the following transition steps occur at the local level, so that toddlers who are potentially eligible receive timely transitions:

2.1. Transition Timeline and Procedures

Throughout an infant or toddler's enrollment in ESIT, the family and the child's IFSP Team discuss the transition steps to be taken to ensure a smooth transition for the toddler when early support services end, by the toddler's third birthday. The provision of a FAPE through an IEP is required no later than the eligible toddler's third birthday. The toddler is no longer enrolled in and eligible for early support services after the toddler's third birthday. For those

toddlers who are not potentially eligible for Part B special education, the ESIT Provider Agency shall make reasonable efforts to identify other possible and appropriate resources in the community, including the Early Childhood Education and Assistance Program (ECEAP), Head Start, early care and education services provided by Tribal Sovereign Nations, and other high-quality early childhood opportunities to assist the toddler and family in transitioning out of early support services.

2.2. Transition Notification (a) As early as nine months but no later than 90 days prior to the toddler's third birthday, DCYF-ESIT shall send an electronic notification to OSPI and to the LEA where the toddler receiving Part C services resides for all toddlers who are potentially eligible (see

Attachment 1 for definition) for services under Part B and who shall shortly turn 3 years old and exit the Part C program. Children of parents who exercised their rights to opt-out of the transition notification/referral and have signed and returned the non-disclosure form titled "Opt-out of LEA Notification", will not be included in the transition notification and personally identifiable information will not be transmitted to the resident school district.

(b) OSPI will request that ESDs offer a supplemental notification of potentially eligible children, as part of their coordinated services agreement and subgrantee of federal IDEA funding. ESIT Provider Agencies will contact the LEA according to local agreements. DCYF will provide electronic notification to the OSPI and appropriate LEAs of toddlers who are potentially eligible for Part B. This notification serves as an initial referral to the LEA for Part B eligibility determination, which requires the LEA to provide a prior written notice to inform the parent of the receipt and status of the initial referral, notice of procedural safeguards and information on Part B to the toddler's parents. After the electronic notification is transmitted, confirmation is automatically recorded on the next IFSP. *IDEA 20 USC 1437*

§637(a)(9)(A)(ii)(I) and 34 CFR 34 §303.209(b); WAC 392-172A-05015; -05010; -02080-03005

(c) The electronic notification data report is transmitted by DCYF-ESIT to OSPI and the LEA on a monthly basis. The report covering the prior month is for toddlers potentially eligible for Part B, who shall shortly turn 3 years old (i.e., between 2 years and 3 months and 2 years and 9 months), will have a transition planning conference offered, and will be exiting the Part C program, according to Section 2.2(a). **Toddlers for whom there is a written parental opt-out form on file with the local ESIT Provider Agency, will not be included in the data report.** The report lists the toddler's name, date of birth, and parent contact information. *IDEA 20 USC 1437 §637(a)(9)(A)(ii)(I) and 34 CFR §303.401(d)*

(d) If a toddler is determined eligible for Part C less than 90 days but more than 45 days before the third birthday, DCYF-ESIT shall provide the notification to OSPI and LEA as soon as possible after determining the toddler's eligibility for Part C and potential eligibility for the Part B. *IDEA 20 USC 1437 §637(a)(9)(A)(ii)(I) and 34 CFR §303.209(b)(ii)*

(e) Notice for toddlers in Section 2.2(c) shall be sent via a secure email to OSPI by DCYFESIT no later than the next monthly notification date after potential eligibility for Part B services is established, recorded, and processed. DCYF-ESIT assures the ESIT Provider Agency shall notify the LEA for toddlers identified in Section 2.2(c) by secure email or phone no later than the next business day after potential eligibility for Part B services is established and recorded.

(f) If a toddler is referred to Part C less than 45 days before the toddler's third birthday the ESIT Provider Agency, with parental consent, shall refer the family to OSPI and appropriate LEA. The ESIT Provider Agency is not required to conduct an evaluation, assessment, or initial IFSP meeting. *IDEA 20 USC 1437 §637(a)(9)(A)(ii)(I) and 34 CFR §303.209(b)(iii)*

2.3. Transition Planning Conference

(a) If the parent has provided approval, the ESIT Provider Agency's FRC shall convene a transition planning conference which must include the parent/guardian, no later than 90 days before the toddler's third birthday, regardless of the availability of the other invitees. *IDEA 20 USC 1437 §637(a)(9)(A)(ii)(III) - (III) and 34 CFR §303.209(c)*

- (b) The transition planning conference shall be held no later than 90 days before the toddler's third birthday, but at the discretion of all Parties, the transition planning conference may occur up to nine months before the toddler's third birthday. The transition planning conference is reported in the Data Management System (DMS) as an IFSP meeting, held to develop the transition plan. The transition planning conference shall be held at a time and location convenient for the family and in the native language of the family or other mode of communication used by the family unless it is clearly not feasible to do so. Meeting arrangements shall be made with, and written notice provided to, the family and other participants early enough before the meeting date to ensure that they shall be able to attend. *IDEA 20 USC 1437 §637 (a)(9)(A)(ii)(III) - (III) and 34 CFR §§303.209(c) and 303.342(d) - (e)*
- (c) The Part C FRC is responsible for inviting meeting participants to the transition planning conference and making every effort to ensure critical partners are in attendance by scheduling the meeting at a mutually agreed on time and place and notifying participants of the meeting early enough to ensure that they will have an opportunity to attend. Parents of children of native heritage may also invite tribal elders and other family supporters.
- (d)
- (i) For the toddler who may be eligible for preschool services under Part B, the transition planning conference must include the Part C Family Resource Coordinator, family of the toddler, the ESIT Provider Agency representative(s), the LEA representative(s), and other individuals required to be included in an initial, periodic, or annual IFSP meeting in accordance with *34 CFR §303.343(a)*. The LEA representative will participate (in person or virtually) in the transition planning conference to provide an overview of the types of preschool special education services that may be available and a description of the evaluation and eligibility process. *34 CFR §300.124(c) and WAC 392-172A-02080(2)*
- (ii) With informed, signed, written parent consent, retained on file with the ESIT Provider Agency, LEAs will be able to access the statewide Data Management System (ACORN 2.0) that will provide access to information in support of a smooth and effective early childhood transition process. Examples of accessible documents may include the child's current IFSP as well as screening, assessment, and evaluation information.
- (iii) The LEA will make a decision of whether or not to conduct an evaluation for Part B eligibility within twenty-five school days of the date the transition planning conference was held. *WAC 392-172A-02080 (b) Within twenty-five school days following the date of the transition planning conference, a determination whether or not to evaluate the student for Part B will be made. The district will provide prior written notice of the decision that complies with the requirements of WAC 392-172A-05010.*
- (iv) If the transition planning conference is for a toddler (a) who is not potentially eligible for preschool services under Part B or (b) whose parent exercised their right to opt-out of the transition notification/referral, meeting participants include the family, the ESIT Provider Agency representative(s), and representatives of the other early childhood program option(s) of interest to the family which may include Head Start, ECEAP, early care and education services provided by Tribal Sovereign Nations, and other highquality early learning programs. *34 CFR §303.209(c) and (e) and §303.343(a)*
- (e) Any transition planning conference must meet the requirements in *34 CFR §§303.432(d) and (e); and §303.343(a) and §303.209(e)*.

2.4. The Individualized Family Service Plan (IFSP) Transition Plan

- (a) At an IFSP meeting not fewer than 90 days, but at the discretion of all Parties up to nine months before the toddler's third birthday, the IFSP team, including the family, shall develop and document a transition plan on the IFSP for each infant and toddler with a developmental delay or disability exiting the Part C program. The transition plan is part of the IFSP and describes any appropriate steps for the toddler to exit the Part C program and any transition services needed by the toddler and the family for transition to preschool or other appropriate

services at age 3. *IDEA 20 USC 1437 §§637(a)(9)(A)(i) and 637(a)(9)(C) and 34 CFR §§303.209(d) and 303.344(h)*

(b) Transition steps shall include:

- (i) Discussion with and training of parents, as appropriate, regarding future placements and other matters related to the toddler's transition;
 - (ii) Procedures to prepare the toddler for changes in service delivery including steps to help the toddler adjust to, and function in, a new setting;
 - (iii) Confirmation that child find (referral) information has been transmitted to OSPI and LEA or other relevant agency and, with parental consent, information such as the most recent evaluation, assessment, and IFSP has also been transmitted.
 - (iv) Identification of transition services and other activities that the IFSP Team determines are necessary to support the transition of the toddler. *IDEA 20 USC 1437§637(a)(9)(A)(i) and 34 CFR §303.344(h)*
- (c) The transition planning conference and the IFSP meeting to develop the transition plan may be combined in one meeting when a conference is required and/or requested by the family. *34 CFR §303.209(e)*
- (d) The FRC and other IFSP team members shall review the program options for the toddler with a disability who is potentially eligible for Part B, for the period from that toddler's third birthday through the remainder of the school year. The team also discusses with the family all early childhood options available in their community. Options may include preschool special education services, ECEAP, Head Start, early care and education services provided by Tribal Sovereign Nations, Elementary and Secondary Education Act (ESEA) Title 1, Part A preschool programming authorized under the Every Student Succeeds Act (ESSA), private preschools, and communitybased childcare settings. *IDEA 20 USC 1437 §637(a)(9)(8) and 34 CFR §303.209(d)(1)(i)*

2.5. Late Referrals to Part C

(a) Initial Referral to Part C more than 45-days prior to the child's 3rd birthday

Upon receipt of an initial referral of a toddler between the ages of 2 years 9 months and 2 years 10 ½ months the ESIT Provider Agency shall complete the Part C eligibility determination process, hold the initial IFSP meeting, and conduct the transition planning within 45 calendar days of the referral. It is permissible and encouraged that ESIT service providers and LEAs jointly and concurrently conduct the evaluation, eligibility, initial IFSP meeting, and initial IEP meeting to ensure coordination and compliance with Part C and Part B timelines. Transition planning conferences are not required. The IEP should be in place by the student's third birthday, when possible.

(b) Initial Referral to Part C less than 90-days prior to the child's 3rd birthday

Upon receipt of an initial referral of a toddler aged 2 years 10 ½ months, the ESIT Provider Agency is not required to complete the evaluation of the toddler. With parental consent, the ESIT Provider Agency shall refer toddlers to OSPI and the LEA of residence or assist the family in making the referral. The LEA responds by accepting this as an initial referral for special education and not as a toddler served by Part C.

2.6. Eligibility for Preschool Special Education Services

- (a) For toddlers who are transitioning from Part C to Part B, LEAs shall ensure that an IEP has been developed and is implemented by the toddler's third birthday, when a toddler is eligible for special education services and the parent consents to initial services. The LEA is responsible for reviewing existing data on the student, including information provided by parents, access through the district portal on the ESIT.Web application, and the ESIT Provider Agency, to determine whether the toddler shall be evaluated for special education. The determination of whether or not to evaluate must be made within 25 school days of the date of the transition planning conference. If the LEA decides that it will not conduct an evaluation, the LEA shall

provide the parent with prior written notice addressing the decision. *WAC 392-172A05010; WAC 392-172A-02080*

- (b) If the toddler is to be evaluated, the LEA provides prior written notice that addresses the district's plan of action, evaluation timelines, and requests the parents' informed written consent to conduct an initial evaluation. For an eligible toddler to have an IEP in place by his/her third birthday, the evaluation shall be completed, and an eligibility decision shall be reached within 35 school days from consent or sooner, depending on the date of the toddler's third birthday. If the parent does not provide consent for the evaluation, the LEA may, but is not required to, ask the parent to participate in mediation in order to obtain their consent, or request a due process hearing to override the parent's refusal to consent. *WAC 392-172A-03005*
- (c) The LEA convenes a meeting to review evaluation results, to include the evaluation group and the parent(s) to explain the results of the evaluation; and to determine eligibility for Part B special education and related services. The LEA and FRC will encourage the parent to invite the FRC and other appropriate advocates as appropriate. If requested by the parent, the LEA shall also invite the ESIT Family Resources Coordinator (FRC) to the eligibility meeting to assist with the smooth transition of services. The LEA must also provide the parent with prior written notice addressing the eligibility decision. *WAC 392-172A-03040*

2.7. Individualized Education Program (IEP) Team Meeting

- (a) If a toddler is determined to be eligible for special education services, the LEA must hold an IEP team meeting within 30 days of the eligibility determination or sooner depending upon the date of the toddler's third birthday. The IEP team meeting may be held at the same time as the evaluation and eligibility meeting. *WAC 392-172A-03105*
- (b) The LEA is responsible for arranging an IEP meeting with the required IEP team members, by the toddler's third birthday. If requested by the parent, the LEA shall also invite the ESIT Family Resources Coordinator (FRC) to the IEP meeting to assist with the smooth transition of services. *34 CFR §300.321(i) and WAC 392-172A-03095(6)*.
- (c) If parents do not consent to the provision of initial services, the LEA may not provide services to the toddler. If the parents refuse consent of initial services prior to the IEP meeting, the LEA is not required to convene an IEP meeting. *WAC 392-172A-03000*
- (d) When developing the initial IEP for all toddlers who transition from Part C services to Part B, the IEP team must consider the IFSP that contains the IFSP content (including the natural environments statement) described in *IDEA 20 USC 1437 §636(d)* and its implementing regulations. *34 CFR §300.323(b)(1)*. *WAC 392-172A-03025*

I. Introduction

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

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

II. Definition of Potentially Eligible for Part B

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

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

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

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

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

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

Table 1: Washington Part C and Part B Eligibility Definitions

Part C Eligibility Definition

The State Lead Agency (SLA) ensures that infants and toddlers, birth to three, shall be eligible for early support services under Part C of the Individuals with Disabilities Education Act (IDEA), if the multidisciplinary team finds any one of the following criteria exists:

- 1) **Developmental Delay:** A toddler shall be eligible if he or she demonstrates a delay of 1.5 standard deviations below the mean score, or 25% delay based on chronological age, in one or more of the following developmental areas, as measured by appropriate diagnostic instruments and procedures, including the use of informed clinical opinion, and administered by qualified personnel.
 - a. Cognitive development
 - b. Physical (vision, hearing, fine or gross motor) development
 - c. Communication (receptive and expressive language) development
 - d. Social or Emotional development
 - e. Adaptive development
- 2) **Eligibility Based on Informed Clinical Opinion:** While the informed clinical opinion of ESIT professionals must be a part of every eligibility process, Informed Clinical Opinion (ICO) may also refer to a primary procedure for determining Part C eligibility.
 - a. ICO is allowable as the primary procedure for determining eligibility if the team cannot identify appropriate instruments to accurately capture a child's developmental status because of health status, age, or characteristics of the disability.

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

- b. Informed clinical opinion is the outcome of a careful team process for reaching a well informed consensus decision about a child's eligibility for Part C.
 - c. ICO does not replace or modify a state's definition of eligibility for Part C.
- 3) Diagnosed Physical or Mental Condition: A toddler shall be eligible if he or she has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay that meets the state's definition of eligibility. Refer to the [ESIT Qualifying Diagnoses List](#) for a complete listing of all diagnoses which confer automatic eligibility.

This definition does not include infants and toddlers who do not meet the above criteria and who are at risk of having substantial developmental delays if early support services are not provided.

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

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

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

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

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

ATTACHMENT 1

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

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

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