

Indicator 12

Q & A

States received clarification from the Office of Special Education Programs (OSEP) on measurement of the Part C and Part B SPP indicators addressing transition from Part C to Part B. The clarifications will impact compliance on the State Performance Plan indicator 12: Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

The answers to the following frequently asked questions are provided by KSDE staff based on federal IDEA 2004 and State regulations or provided by OSEP based on IDEA regulations and measurement criteria for indicator 12.

1. Question:

A child served in a Part C infant/toddler network was referred by that Network to an LEA but then moved before the child was evaluated to determine eligibility for Part B. How will that effect the LEA's compliance on indicator 12?

Answer:

The LEA would indicate that the child had moved between referral and evaluation for Part B eligibility when reporting to KSDE for indicator 12. The child would not be considered when determining compliance on indicator 12 for the LEA where the child was referred.

2. Question:

Some children are not referred from a Part C infant/toddler network to an LEA at least 90 days before the child's third birthday. Will an LEA be considered noncompliant on this indicator if the LEA is unable to determine eligibility for Part B or develop and implement an IEP before the child's third birthday?

Answer:

Children referred to Part C less than 90 days before the child's third birthday will not be considered when determining compliance on indicator 12 for the LEA.

Children referred to Part C more than 90 days before the child's third birthday and referred to an LEA less than 90 days before the third birthday are considered when determining compliance on indicator 12 for the LEA. It is the responsibility of infant/toddler networks and LEAs to work together to make sure that there is timely LEA notification to enable LEAs to meet the timelines of this indicator.

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3. Question:

Sometimes it is difficult for LEA staff to arrange all the meetings and complete eligibility determination or develop and implement an IEP by the child's third birthday even when the child is referred from a Part C infant/toddler network within the 90 day timeline. Can the child be referred to the LEA before 90 days?

Answer:

At the discretion of all parties, the local Part C infant/toddler network may hold a transition conference up to nine months prior to the child's third birthday. It is recommended that LEAs and local Part C agencies develop a Memorandum of Understanding (MOU) on transition to address the transition process including referral timelines.

4. Question:

In Kansas, there is a State exception to the 60-day timeline in State regulations that allows LEAs to extend the State's evaluation timeline beyond 60 school days if the LEA has received written parental consent to extend the timeline (K.A.R. 91-40-8(f)). Can the LEA use this exception to extend the timeline for IEP development beyond the child's third birthday and still be compliant on this indicator?

Answer:

No, the LEA cannot use this State's exception to extend the timeline for this indicator beyond the child's third birthday. The LEA would be noncompliant on this indicator for that child.

5. Question:

LEAs often do not have staff available to complete evaluations and IEPs in the summer. Will the LEA be noncompliant on this indicator if the LEA waits until school is back in session after the child's third birthday to determine eligibility or develop and implement the IEP?

Answer:

Yes, the LEA would be considered noncompliant on this indicator. If the child's third birthday is in the summer and LEA staff will not be available during that time, the LEA must determine eligibility for Part B and, if the child is eligible, develop an IEP by the child's third birthday. The date of initiation of services may be the beginning of the school year if extended school year (ESY) services are not necessary for the provision of FAPE.

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6. Question:

The LEA scheduled the child's IEP with the parent before the child's third birthday at a mutually agreed upon time. The parent cancelled that meeting or did not come due to family circumstances (i.e. illness, death in the family, work schedule changed, family moved within district) and the LEA could not find another mutually agreed upon time to reschedule the IEP meeting before the child's third birthday. Would the LEA be noncompliant on this indicator even though the IEP meeting was originally scheduled before the child's third birthday?

Answer:

Yes, the LEA would be considered noncompliant on this indicator. A parent not being available to participate in an IEP meeting is not the same as the parent refusing to provide consent.

There are several strategies for LEAs to prevent noncompliance on this indicator in these situations :

- Schedule the meeting earlier so there is time to reschedule if there is a cancellation
- Offer parent participation in an IEP meeting in alternate ways, such as conference call, in accordance with K.A.R. 91-40-17(c)
- Develop the IEP without parent participation in accordance with K.A.R. 91-40-17(e) and present the parent with the proposed IEP and a consent form

7. Question:

The LEA received a referral from a Part C infant/toddler network and obtained consent for evaluation from the child's parent. At that point the family disappeared or did not respond to contact attempts to set up dates for evaluating the child before the child's third birthday. Will the LEA be noncompliant on indicator 12 in these circumstances?

Answer:

No the LEA would not be considered noncompliant. The parent's repeated refusal to make the student available for evaluation (K.A.R. 91-40-8(g)(1) and 34 CFR 300.301(d)(1)) is a federal exception to the evaluation timeline. Because parent's repeated refusal to produce the student is a federal exception to the evaluation timeline, the district would be compliant.