STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MEMORANDUM

TO: Special Education Directors

FROM: Peter Keup
Director, Office of Special Education Services

DATE: May 2, 2023

RE: Part C to B Transition Meetings

The Office of Special Education Services (OSES) recently received guidance from the, United States Department of Education, Office of Special Education Programs (OSEP) on March 17, 2023, concerning transition from Part C to Part B. The OSEP states local education agencies (LEAs) must attend transition conferences arranged by state lead agencies (Baby Net) for toddlers exiting Part C early intervention services who are potentially eligible for special education services under Part B of the IDEA. Attendance at these conferences is not optional for LEAs. This response resulted from a parent letter to the OSEP that included seven key questions concerning Part C to Part B responsibilities.

The OSEP clarified the responsibilities of the state lead agencies to establish a transition in the individualized family service plan (IFSP) not fewer than ninety days (and at the discretion of all parties, not more than nine months) before the third birthday for all toddlers who are exiting Part C and not just those who are potentially eligible for Part B.

The Part B LEA must work with the Part C early intervention services (EIS) provider to ensure that the appropriate LEA is invited to, and participates in, the transition conference. The purpose of the appropriate LEA participating in the transition conference is to ensure that toddlers exiting Part C and eligible for Part B "experience a smooth and effective transition." 34 C.F.R. § 300.124(a). The LEA's participation is critical to the LEA being able to provide the parent with information about Part B preschool services, and start the process for consenting to an evaluation and conducting eligibility determinations under Part B.

The OSEP also includes guidance regarding referrals under Part C that occur fewer than 45 days before a toddler's third birthday. If this occurs the State lead agency is not required to conduct the initial evaluation to determine eligibility under Part C, an assessment, or an IFSP meeting.

However, if the State lead agency suspects that the child may be a child with a disability eligible for preschool services or other services under Part B of the IDEA, the State lead agency, with parental consent, if required under 34 C.F.R. § 303.414, must refer the toddler to the state educational agency and appropriate LEA. 34 C.F.R. § 303.209(b)(1)(iii).

For your convenience, you can read the OSEP's "Letter to Nix" that goes into greater detail on their guidance. Please contact our office at 803-734-8224 if you have questions. Thank you for all you do for students with disabilities.