

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter E. Special Education

Part 130. Procedural Requirements and Program Standards

Subpart 21. Transition

6 CAR § 130-2101. Transition of children from Part C to preschool programs.

(a) Applicability.

(1) This section applies only to the transition of eligible children with disabilities from the Part C Early Intervention Program, to the Early Childhood Special Education Program under Section 619 of Part B of the Individuals with Disabilities Education Act.

(2) Participation in the Early Intervention Program does not automatically make a child eligible for inclusion in the Early Childhood Special Education Program.

(3) One (1) purpose of the transition process is to determine the continued eligibility of a child with disabilities exiting the Early Intervention Program in order for the child to receive special education and related services in the Early Childhood Special Education Program.

(b) General.

(1) Transition from the Early Intervention Program (Part C) to the Early Childhood Special Education Program (Section 619) will occur upon the child's third birthday, consistent with an IEP for the child.

(2) A child with disabilities can enter an Early Childhood Special Education Program provided by or in conjunction with an educational service agency/local education agency (LEA) provided that he or she is an eligible child with disabilities under the Division of Elementary and Secondary Education's eligibility criteria for preschoolers with disabilities.

(3) The pretransition process will be initiated by the sending agency (Part C agency) ninety (90) calendar days prior to the child's third birthday.

(4) Upon receipt of notice of a child's impending transition from the Early Intervention Program to the Early Childhood Special Education Program, a transition team will meet to define the activities to take place throughout the transitional process, the time frames in which they will occur, and the person or persons responsible for carrying out these activities, consistent with required due process.

(5) At a minimum, the transition team will consist of the following individuals:

(A) The parent or parents;

(B) A representative or representatives from the Early Intervention Program; and

(C) A representative of the Early Childhood Special Education Program to which the child is anticipated to transition (either the Early Childhood Coordinator from the educational services agency representing the affected LEA or other LEA representative).

(6) The sending and receiving agencies are obligated to implement and adhere to the transition process and procedures as jointly developed by the Division of Elementary and Secondary Education and the Part C lead agency in an effort to ensure transition of services.

6 CAR § 130-2102. Transition from Early Childhood Special Education Programs to kindergarten.

(a) Applicability.

(1) These rules apply only to the transition of eligible children with disabilities from the Early Childhood Special Education Program to school-aged programs upon eligibility for school entry at age five (5).

(2) Participation in the Early Childhood Special Education Program does not make a child with disabilities automatically eligible for special education and related services upon entry to a school-aged program.

(3) One (1) purpose of the transition process is to determine the continued eligibility of a child with disabilities exiting the Early Childhood Special Education

Program in order for the child to receive special education and related services in the school-aged program.

(b) **General.**

(1) Transition from the Early Childhood Special Education Program to the school-aged program will occur upon the child attaining the age of five (5) and becoming eligible for kindergarten enrollment.

(2) A child with disabilities exiting the Early Childhood Special Education Program may receive special education and related services in the school-aged program only if the child is determined to be a child with a disability under the Division of Elementary and Secondary Education's eligibility criteria governing school-aged programs.

(3) The pretransition process will begin in January prior to the child enrolling in kindergarten.

(4) Beginning in January of each year, the Early Childhood Special Education Program will notify each LEA of the preschool children with disabilities in the LEA's jurisdiction that will be eligible to enter kindergarten the following school year, in order to begin transition planning for each child.

(5) Upon receipt of notice of a child's impending transition from the Early Childhood Special Education Program to the school-aged program, a transition team will meet to define the:

- (A) Activities that will take place throughout the transition process;
- (B) Time frames in which these activities must be accomplished; and
- (C) Person or persons responsible for carrying out these activities.

(6) At a minimum, the transition team will consist of the following individuals:

- (A) The parent or parents;
- (B) A representative of the Early Childhood Special Education Program;

and

(C) A representative of the LEA where the child will enter the school-aged program.

(7)(A) Responsibility for implementing the transition guidelines established by the Division of Elementary and Secondary Education is jointly shared by the Early Childhood Special Education Program and the LEA.

(B) Failure on the part of either party to implement the guidelines will result in a finding of noncompliance for the nonparticipating party.

6 CAR § 130-2103. Transition from school to adult life.

(a) Definition.

(1) "Transition services" means a coordinated set of activities for a child with a disability that:

(A) Is designed to be within a results-oriented process that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post school activities, including:

- (i) Post-secondary education;
- (ii) Vocational education;
- (iii) Integrated employment (including supported employment);
- (iv) Continuing and adult education;
- (v) Adult services;
- (vi) Independent living; or
- (vii) Community participation;

(B) Is based upon the individual child's needs, taking into account the child's preferences and interests; and

(C) Includes:

- (i) Instruction;
- (ii) Related services;
- (iii) Community experiences;
- (iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

(2) Transition services for children with disabilities may be:

(A) Special education, if provided as specially designed instruction; or

(B) A related service, if required to assist a child with a disability to benefit from special education.

(b) Content of the IEP.

(1) Transition services.

(A) For each child with a disability, beginning not later than the first IEP to be in effect when the child turns sixteen (16) (or younger, if determined appropriate by the IEP team) and updated annually thereafter, the IEP must include:

(i) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to:

(a) Training;

(b) Education;

(c) Employment; and

(d) Where appropriate, independent living skills; and

(ii) The transition services (including courses of study) needed to assist the child in reaching those goals.

(B)(i) The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons.

(ii) The requirements in 34 C.F.R. § 300.320(b) (related to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Individuals with Disabilities Education Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(2) Transfer of rights.

(A) In Arkansas, beginning not later than one (1) year before a child reaches the age of majority under state law, age eighteen (18), except for a child with a disability who has been determined to be incompetent under state law, the child's IEP must include a statement that the child has been informed of his or her rights under

Part B of the act, if any, that will transfer to the child on reaching the age of majority, consistent with 34 C.F.R. § 300.520 and 6 CAR § 130-901 et seq.

(B) All rights accorded to parents under Part B of the act transfer to the children who are incarcerated in an adult or juvenile, state or local correctional institution.

(C) The public agency must provide any notice required by this part to both the child and the parents, and all other rights accorded to the parent under Part B of the act transfer to the child.

(3) The LEA must use the procedures established by the state for appointing the parent of a child with a disability or, if the parent is not available, another appropriate individual to represent the education interests of the child throughout the period of the child's eligibility under Part B of the act if, under state law, a child who has reached the age of majority, but has not been determined to be incompetent, can be determined not to have the ability to provide informed consent with respect to the child's educational program.

(c) **Participants in meetings.**

(1) **Child.** Under this part, the public agency must invite a child with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the child's post-secondary goals and transition services needed to assist the child in reaching those goals under 34 C.F.R. § 300.320(b).

(2) **Child does not attend.** If the child does not attend the IEP meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) **Agency participation.** To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of 34 C.F.R. § 300.321(b) and subdivision (b)(1)(A) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

(d) **Parent participation.** In implementing the requirements of 34 C.F.R. § 300.322 and 6 CAR § 130-806, the public agency must take steps to ensure that one (1) or both of the parents of a child with a disability are:

- (1) Present at each IEP team meeting;
- (2) Afforded the opportunity to participate; and
- (3) Notified of the meeting early enough to ensure that they will have an opportunity to attend.

(e) **Agency responsibilities for transition services.**

(1) If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with 34 C.F.R. § 300.320(b), the public agency must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the child set out in that IEP.

(2) Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of the agency.