



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS

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The Office of Special Education Programs (OSEP), within the U.S. Department of Education's (Department) Office of Special Education and Rehabilitative Services, issues this Question and Answer (Q & A) document in response to inquiries concerning implementation of the Individuals with Disabilities Education Act (IDEA) Part C evaluation and assessment timelines in the current COVID-19 environment.

This Q & A document does not impose any additional requirements beyond those included in applicable law and regulations. It does not create or confer any rights for or on any person. The responses presented in this document generally constitute informal guidance representing the interpretation of the Department of the applicable statutory or regulatory requirements in the context of the specific facts presented here and are not legally binding and does not establish a policy or rule that would apply in all circumstances.

To review other Q & A documents that OSEP has provided related to COVID-19, please visit <https://sites.ed.gov/idea/topic-areas/#COVID-19>. Additional information specific to the COVID-19 pandemic may be found online at <https://www.ed.gov/coronavirus>.

## INITIAL EVALUATION AND ASSESSMENT TIMELINE

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IDEA Part C requires a timely, comprehensive, multidisciplinary evaluation to determine the eligibility of each child, birth through age two, who is referred for an evaluation or early intervention services and suspected of having a disability. If the child is determined eligible, an assessment is conducted to determine the appropriate early intervention services and supports for the child and family.

**Q1. What exceptions are available to a State Lead Agency (State LA) and its early intervention service (EIS) providers in meeting the 45-day timeline requirement for conducting initial evaluations and assessments and Individualized Family Service Plan (IFSP) meetings when access to homes and facilities are limited or have restrictions that prevent face-to-face meetings?**

The IDEA Part C 45-day timeline is in 34 C.F.R. §§ 303.310, 303.342(a) and 303.345(c). The 45-day timeline applies to:

- 1) any screening offered by the State,
- 2) the initial evaluation,
- 3) the initial child and family assessment, and

- 4) the initial Individualized IFSP meeting.

This timeline requirement includes two allowable exceptions:

- 1) The child or parent is unavailable to complete the screening (if applicable), the initial evaluation, the initial assessments of the child and family, or the initial IFSP meeting due to exceptional family circumstances that are documented in the child's early intervention records; or
- 2) The parent has not provided consent for the screening (if applicable), the initial evaluation, or the initial assessment of the child, despite documented, repeated attempts by the State LA or EIS provider to obtain parental consent.

OSEP has historically also applied this documented "exceptional family circumstances" exception when clear circumstances outside the State LA's or EIS provider's control, such as a hurricane, do not permit the underlying activity to occur and thus the child and family are unavailable as a practical matter.<sup>1</sup> In these very limited circumstances, under 34 C.F.R. § 303.310(c), the State LA or EIS provider must:

- 1) document in the child's early intervention record the exceptional family circumstances; and
- 2) complete the activities as soon as possible after the documented exceptional family circumstances no longer exist.

The Department acknowledges that it may not be possible to complete some or any of the activities required within the 45-day timeline remotely. For example, conducting an in-person observation may be critical to ensuring appropriate evaluation and assessment. Given that in-person meetings may not be feasible or advisable due to the COVID-19 pandemic, such restrictions can constitute a documented exceptional family circumstance that qualifies for an exception to the 45-day timeline. In these situations, the State LA or EIS provider must document application of the exception in the child's early intervention record, complete the delayed evaluation, assessment, or initial IFSP as soon possible after the exceptional circumstances no longer exist. Determinations regarding whether an exceptional family circumstance exists must be made on a case-by-case basis. The 45-day timeline cannot be extended for all children within a state under the assumption that COVID-19 is an exceptional family circumstance for all families.

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<sup>1</sup> Note that this exception does not apply if the State LA or EIS provider staff are unavailable due to staffing shortages, etc.

## INTERIM IFSP<sup>2</sup>

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**Q2. Can the State LAs and their local EIS providers use the interim IFSP until a face-to-face evaluation(s) or meeting(s) can be held?**

Yes. An interim IFSP may be helpful when an initial IFSP cannot be developed and the parents and State LA or EIS providers agree on the IFSP services needed by the eligible child and family.<sup>3</sup> The Department wants to highlight the use of "interim IFSPs" where documented exceptional family circumstances caused a delay in completing the initial evaluation and assessments during the 45-day timeline requirement.

Any early intervention services that have been determined to be needed by, and that can be available immediately to, the child and the child's family, particularly those which can be provided remotely (particularly during the pandemic when in-person meetings are limited), with parental consent, may begin before the completion of the evaluation or assessments.

## CONDUCTING AN EVALUATION AND ASSESSMENT

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**Q3. How can a State LA or its EIS providers conduct evaluations to determine a child's eligibility for IDEA Part C or conduct the child assessment when staff cannot conduct in-person meetings or conduct home visits due to the pandemic?**

The Department acknowledges that social distancing measures and other limitations during the pandemic may make administering most in-person evaluations impracticable and may place limitations on how evaluations and the child assessment are conducted under IDEA Part C. Thus, the Department highlights the option of using medical records,<sup>4</sup> when appropriate, to establish eligibility without conducting an evaluation. When using medical records to establish eligibility, the State LA or EIS

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<sup>2</sup> An interim IFSP may be put into place with parental consent under 34 C.F.R. § 303.345 to provide IDEA Part C services before the evaluation or assessment is completed, and in addition must include the name of the responsible service coordinator, consistent with 34 C.F.R. § 303.344(a). The service coordinator will implement the interim IFSP and coordinate with any other agencies or people as appropriate.

<sup>3</sup> The requirements for an interim IFSP are in 34 C.F.R. §§ 303.310(c) and 303.345.

<sup>4</sup> The option to use medical records when determining eligibility are in 34 C.F.R. § 303.321(a)(3)(i).

provider must still conduct an appropriate assessment<sup>5</sup> of the child and a family-directed assessment.<sup>6</sup>

State LAs may wish to investigate available assessment instruments and tools to determine if some can be administered or completed remotely during the pandemic, provided that assessment of the child is based on personal observation (whether in person or through videoconferencing). State LAs may also work with the developers of their current assessment instruments to determine if the instruments can be administered or completed remotely, without significantly impacting the validity of the results.

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<sup>5</sup> The assessment of the child must include: a review of the results of the evaluation, personal observations of the child, and identification of the child's needs in each of the development areas. 34 C.F.R. § 303.321(c)(1).

<sup>6</sup> The family directed-assessment must, among other requirements, be based on information obtained through an assessment tool and through an interview of appropriate family members. 34 C.F.R. § 303.321(c)(2).