

Regulations Task Force **5/10/12, 10:15 – 11:45**

Minutes

Expected Outcomes:

- Review the new federal regulations related to transition requirements to determine what, if any, changes are needed in Virginia's practices.
- Identify dates and methods for training that will be needed prior to July 1 implementation of new parent protections.

Participants: Kendall Lee, Mary Anne White, Kyla Patterson, Carol Burke, Bev Crouse, Sandra Church, Mary Lou Hutton, Catherine Hancock, Phyllis Mondak

Notification to SEA and LEA

- Regulatory Requirement - If child is potentially eligible for Part B, must ensure notification to the SEA and LEA not fewer than 90 days before the child's third birthday. (303.209(b)(1)(i))
 - The timeline for notification is new and intended to align with the date by which the transition conference must occur and a transition plan must be in place
 - In the Analysis of Comments section of the regulation package, OSEP states, "When the LEA receives the notification . . . , *the LEA must treat this as a referral* and provide parents with the procedural safeguards notice required under Part B and determine if an evaluation for eligibility must be conducted under Part B."
 - Requirement to send notification to the SEA (Virginia Department of Education) in addition to the local school division is new.
- Regulatory Requirement - The State Lead Agency may require providers to inform parents of the intended notification to the SEA and LEA and allow them a specified period of time to object. (303.401(e))
 - This means we can still use our existing "opt out" policy – the family can tell us they don't want the information sent.
- Regulatory Requirement - Notification must include the child's name, date of birth, and parent contact information (parents' names, addresses and telephone numbers). (303.401(d)(1))
- In order to address these changes, we will need to make some changes to page 7 of the IFSP form:
 - Clarify that notification is a referral by changing the header to read "Notification and Referral to the Local School Division"
 - Include a reminder about the timeline for notification (at least 90 days before transition)
 - Clarify the date by which the family may object by changing the wording in the notification box to read "no earlier than ____" rather than "no later than ____."
 - Revise the list of what is included in the notification to include the parents' name(s)
 - The group discussed how to handle the situation in which a family initially says they do not want the notification made but later changes their mind. Some local systems have difficulty accessing the original IFSP from the record. Group members will think about other possible ways to document. We would like to stay away from using a release of information form since notification does not require a release or consent.

- **Follow-Up:** Kyla will draft changes to the IFSP form for group review. At the next meeting, the group will revisit the issue of options for documenting when a family changes their mind about notification.
- Phyllis updated the group on the mechanism that will be used, at least initially, to meet the requirement for notification to DOE. DOE will use their single sign-on webserver with an account for each local system. Phyllis will post an excel spreadsheet, and the local system will go into the appropriate tab or file to enter the notification information. DOE wants only the minimal amount of notification information since they'll then be responsible for it. Since this process involves essentially signing into a dropbox to access a secure file, confidentiality is assured. At the end of the fiscal year Phyllis can save that year's data with a date and can keep this information accessible to the local system. Group members felt this was a workable solution. Phyllis reported that this should not take a lot of time to set up. DOE will need to look into the specifics of setting up passcodes for each local system (for instance, she is not sure if the passcode will be assigned to a person or an entity/agency).
- During the discussion of these transition topics, it became clear that there is some confusion about what it means to make a referral to Part B and about the wording in the OSEP Analysis of Comments that the notification must be treated as a referral and the LEA must determine if an evaluation for eligibility must be conducted under Part B. Some group members had understood that all referrals from Part C went to evaluation. Phyllis clarified that all referrals are reviewed through the child study process to determine if the referral should move forward to evaluation. The child study team may decide, with parent input and agreement, that the referral will not proceed to evaluation. The 65-day timeline always starts with the receipt of the referral by the local school division, but that doesn't mean all children move to evaluation and eligibility meeting.
 - **Training and TA Need:** Address this issue in the Transition Q&A from DOE, at the Creating Connections for Shining Stars Conference session on transition, during training for implementation of new regulations, and through clarification in the Practice Manual.

Transition Plan

- Regulatory Requirement - The family must be included in the development of the transition plan. (303.209(d)(1)(ii))
 - We already do this.
- Regulatory Requirement - Must establish a transition plan in the IFSP not fewer than 90 days (and at the discretion of all parties, not more than 9 months) before the toddler's third birthday. (303.209(d)(2))
 - OSEP has clarified that the transition plan is part of the IFSP, not a separate document.
 - The timeline for establishing a transition plan is new.
 - The language in Virginia (in state regulations, Practice Manual, etc.) will need to reflect that children can transition to Part B at times other than their third birthday.
 - **Task Force Recommendation for implementation in Virginia** – Change the header above the table on page 7 of the IFSP to say “Transition Plan.”
 - There was also discussion about moving the notification and referral information from the separate box on page 7 into the table. There was some concern that it would be more likely to get forgotten in the table but also a sense that it fit better there in terms of the timing and flow of when it will occur. The use of bold type for the “header” may help it stand out in the table.

- **Follow-Up:** Kyla will revise page 7 of the IFSP with the notification and referral information in the table for the group to review and consider before making a final recommendation.
- Regulatory Requirement - The transition plan must provide for a review of the program options for the toddler for the period from the toddler's third birthday through the remainder of the school year. (303.209(d)(1)(i)).
 - This is not a new requirement, but the new regulations expressly incorporate this requirement as part of developing the transition plan.
 - The group had questions about exactly what OSEP means about program options for the remainder of the school year since it seems like the child would just start school.
 - **Follow-Up:** Kyla will look for more information about the requirement to review program options

Training for 7/1 Implementation

- Topics
 - System of Payments – new regulations and other revisions to Family Cost Share forms
 - Other new parent protections and related form changes
- Group recommendations about training:
 - Use statewide webinars since this is a very efficient way to get the information to a large number of people, recording the webinars for those who may miss them or want to go back to listen again.
 - Send materials out ahead of the webinar
 - Allow time for Q&A during webinar
 - Follow up with additional discussion and opportunity for questions at regional meetings.
 - Send out a “Hold the Dates” notice as soon as possible.
 - Schedule for first thing or last thing in the day, rather than the middle. Maybe one of each (am and pm).
- Kendall, Mary Lou, Sandra, and Phyllis are willing to help deliver information
- **Follow-Up:** Kyla will work with staff to identify dates for the webinars and will begin outlining the content to be covered.

Next Steps

- Next Meeting – May 23, 1:00 – 2:30
- Topic – Remaining transition requirements, update on planning for training