OSEP Guidance on Part C Hearing Screening and Evaluation Practices

The Early Childhood Hearing Outreach (ECHO) Initiative at NCHAM received a response from the Office of Special Education Programs (OSEP) on December 18, 2018 regarding an inquiry made to OSEP seeking guidance regarding hearing screening and evaluation practices in Part C.

The following is found in this document:

1) The Guidance Request to OSEP from the ECHO Initiative.
2) Response to the Guidance Request from OSEP.

Guidance Request

We are seeking guidance from the Office of Special Education Programs regarding practices to ensure that every child being evaluated for Part C eligibility is adequately evaluated for hearing loss regardless of the presence or absence of other developmental concerns or established conditions.

Background Context

Since 2001, the Early Childhood Hearing Outreach (ECHO) Initiative at Utah State University has served as a national resource center to assist Early Head Start (EHS), Head Start (HS) and other early care and education providers in implementing evidence-based practices leading to early identification of children with hearing loss. The ECHO Initiative is building the capacity of programs across the U.S. to use highly-reliable Otoacoustic Emissions (OAE) technology as the first step in identifying young children with hearing loss and helping these children receive the audiological evaluation and intervention needed.

This is important because permanent hearing loss is an invisible condition and it is also the most common birth defect. In addition, the incidence of hearing loss doubles during the critical language-learning years before children enter school. An infant's or toddler's inability to hear clearly is rarely obvious to family members, health care providers or other professionals and it may therefore remain unidentified for years. Over time, a child with an unidentified hearing loss will begin to manifest language delays and/or behavioral irregularities. In the absence of reliable hearing evaluation, these observable conditions may lead to misdiagnosis, incomplete diagnosis and inappropriate intervention. Since beginning the work with EHS programs, ECHO Initiative staff have repeatedly received anecdotal reports about children enrolling in EHS programs who have been receiving Part C services for speech and language delays without having had a hearing screening/evaluation. It was only when these children did not pass the OAE screening provided by EHS staff, and were subsequently assessed by a pediatric audiologist, that the presence of a permanent hearing loss was diagnosed. This raised our concerns about how children (identified later as having a hearing loss) were being enrolled in and served by Part C providers without have had a hearing evaluation.

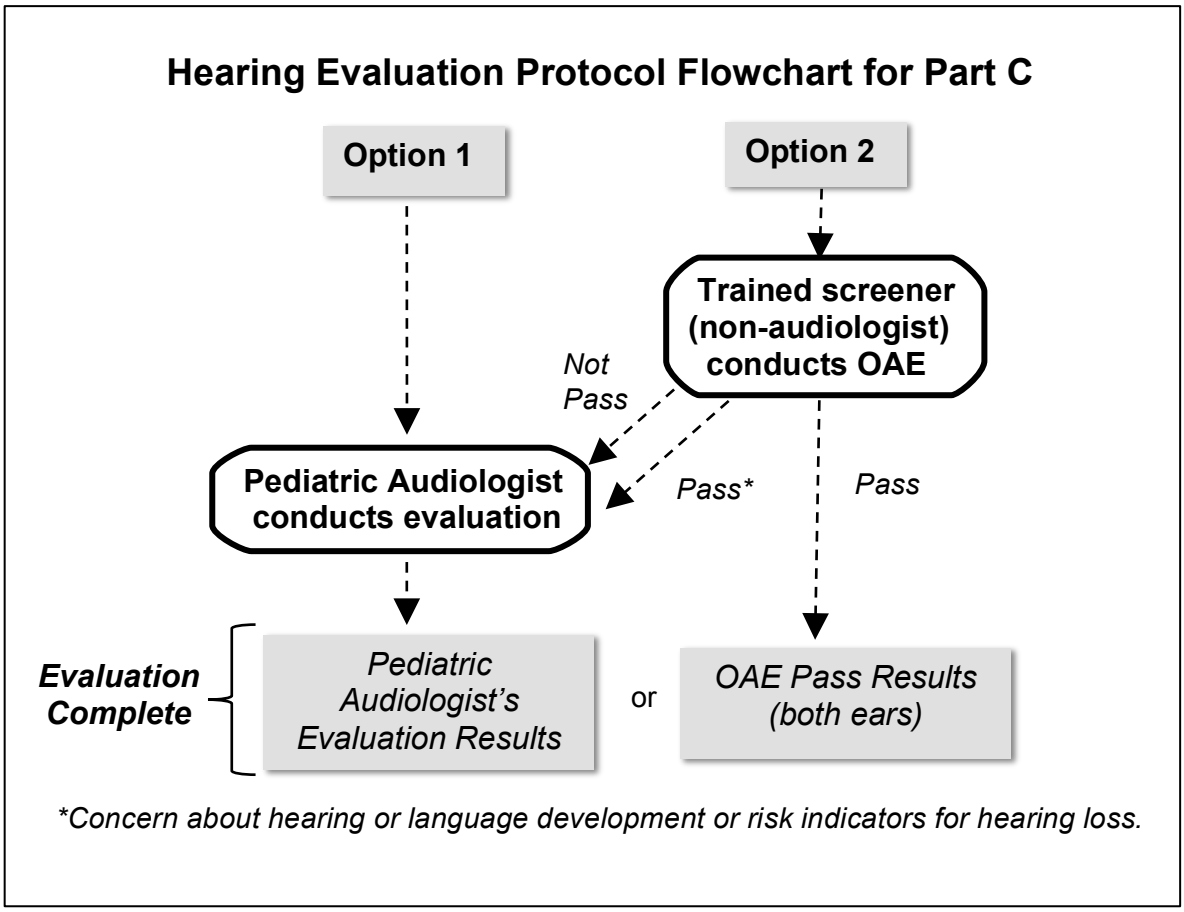
Although Part C Regulations require that evaluation and assessments include hearing, current guidelines do not specify how that should be carried out. This may explain why we have seen children obtain Part C services for speech and language delays in the absence of a hearing screening or evaluation. In an effort to learn more about Part C provider practices related to implementing hearing evaluation, the ECHO Initiative obtained and analyzed information from 155 Part C providers from17 states. The results revealed that the methods most commonly used to evaluate hearing were informal observations of a child's response to sounds/noisemakers and family-completed questionnaires. These methods are not considered as reliable stand-alone practices for evaluating a child's hearing. Less than 20% of the programs reported that most of their children received a full audiological evaluation and only a quarter of programs reported that they used OAE technology as the first step in a hearing evaluation process, which would be considered

standard best practice. This information started to shed more light on the need for guidance to improve hearing evaluations for children in Part C.

There are two acceptable options for completing a hearing evaluation necessary for increasing the possibility that a child who is deaf or hard-of-hearing will be identified after making contact with a local Part C program:

Option 1—A one-step audiologic evaluation is performed directly by a pediatric audiologist.
Option 2—A two-step screening and evaluation process is implemented in which an OAE test is first conducted by a trained non-audiologist (usually a member of the Part C evaluation team) with additional assessment by a pediatric audiologist if needed.

Explanation: A comprehensive audiologic evaluation provided by a pediatric audiologist can provide a highly accurate profile of a child's hearing status. However, the shortage of pediatric audiologists in many communities makes it unfeasible for all children enrolled in Part C, or being evaluated for Part C eligibility, to be assessed by an audiologist as indicated in Option 1 above. A more practical protocol for implementing reliable hearing evaluation for many programs therefore includes the initial step of an OAE test conducted by a trained professional as an objective physiological measure of the inner ear's response to sound. OAE testing is within the scope of practice of Speech Language Pathologists (who are often serving on Part C evaluation teams). In most states there are no regulations placed on who may perform OAE screening, though we always recommend thorough training of anyone engaged in provider this service. Once provided, children not passing the OAE test (step 1), along with children who have risk factors for hearing loss or whose parents indicate concern about hearing, speech or language development, would then receive further audiologic evaluation by a pediatric audiologist (including otoscopy, tympanometry, speech and pure tone audiometry testing, and auditory brainstem response (ABR) testing as needed). The figure below illustrates the two options described above. In either option, some children may also need to be referred to a health care provider to resolve issues such as temporary middle ear disorders that require medical assessment/intervention.



Questions about which we are seeking guidance

We are requesting guidance pertaining to the following six questions:

1. Are the options described above appropriate guidance for Part C programs to follow?

   (The following questions attempt to elicit further clarification on a number of specific practice recommendations.)

2. Should all children being considered for Part C eligibility receive a hearing screening or evaluation as part of the eligibility determination? If not, which children should/should not be receiving a hearing evaluation and what is the rationale?

3. For children who should be receiving a hearing screening or evaluation as a part of eligibility determination for Part C services, what method should be used and what is the timeline and protocol to be followed for completing the evaluation?

4. If a child is determined to be eligible for Part C services based on an established condition or an evaluation result--prior to the completion of a hearing screening or evaluation--how should Part C programs ensure that a hearing screening or evaluation

is also completed in a timely way and that results are incorporated appropriately into the child's developmental profile and plan?

5. If a child comes to the Part C eligibility evaluation process with a previous hearing screening or evaluation result (such as a newborn hearing screening outcome or a hearing screening result provided by an Early Head Start program or a health care provider), under what conditions (methods used and/or time elapsed since the screening or evaluation was completed) are these results considered acceptable for meeting Part C hearing evaluation requirements? Under what conditions must additional hearing screening or evaluation be completed?

6. If a child receives an initial step in the hearing evaluation process, but requires treatment to resolve any temporary medical conditions before the hearing evaluation can be completed (for example, a child has otitis media which can take a month or more to resolve) how should Part C programs ensure that the child remains actively in the eligibility determination process if the hearing evaluation requires more than 45 days to complete?

If you need any further clarification regarding our questions, please feel free to contact me:

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

December 20, 2018

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Dear Dr. Eiserman:

This letter responds to your correspondence to Ruth Ryder, former Acting Director of the U.S. Department of Education's (Department's) Office of Special Education Programs (OSEP). In that letter, you asked about the evaluation process for an infant or toddler suspected of being deaf or hard of hearing to determine eligibility for early intervention services (EIS) under Part C of the Individuals with Disabilities Education Act (IDEA). OSEP's responses are provided below. We regret the delay in responding.

We note that section 607(d) of the IDEA prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

In your letter, you ask whether screening should be included as part of an evaluation for an infant or toddler suspected of being deaf or hard of hearing, as well as information on the applicable evaluation timelines and required protocols. The Part C IDEA regulations at 34 C.F.R. § 303.321(a)(1) require that State lead agencies must ensure that, subject to obtaining parental consent, each infant or toddler under the age of three who is referred for evaluation or early intervention services and suspected of having a disability, receives a timely, comprehensive, multidisciplinary evaluation unless the child's eligibility is established by medical or other records under 34 C.F.R. § 303.321(a)(3)(i). Evaluation means the procedures used by qualified personnel[1] to determine a child's initial and continuing eligibility for Part C services. 34 C.F.R. § 303.321(a)(2)(i). The Part C regulations at 34 C.F.R. § 303.321 require that the evaluation and

[1] Qualified personnel means personnel who have met State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which the individuals are conducting evaluations or assessments or providing early intervention services. 34 C.F.R. § 303.31.

assessment of an infant or toddler be based on informed clinical opinion, and include the following –

(i) A review of pertinent records related to the child's current health status and medical history.
(ii) An evaluation of the child's level of functioning in each of the following developmental areas:
  (A) Cognitive development.
  (B) Physical development, including vision and hearing. (emphasis added)
  (C) Communication development.
  (D) Social or emotional development.
  (E) Adaptive development.
(iii) An assessment of the unique needs of the child in terms of each of the developmental areas, including the identification of services appropriate to meet those needs.

While States determine the specific procedures used in an evaluation, under 34 C.F.R. § 303.321(b), no single procedure may be used as the sole criterion for determining a child's eligibility under IDEA Part C. Furthermore, evaluation procedures must include: (1) administering an evaluation instrument; (2) taking the child's history; (3) identifying the child's level of functioning in each of the developmental areas in § 303.21(a)(1); (4) gathering information from other sources as necessary; and (5) reviewing medical, educational, or other records.

If a child is determined eligible as an infant or toddler with a disability, an assessment must be conducted by qualified personnel in order to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs. The assessment of the child must include the following —

(i) A review of the results of the evaluation conducted under paragraph (b) of this section;
(ii) Personal observations of the child; and
(iii) The identification of the child's needs in each of the developmental areas in 34 C.F.R. § 303.21(a)(1).

A family-directed assessment also must be completed in order to identify the family's resources, priorities, and concerns and the supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's infant or toddler with a disability. The family-directed assessment must —

(i) Be voluntary on the part of each family member participating in the assessment;
(ii) Be based on information obtained through an assessment tool and also through an interview with those family members who elect to participate in the assessment; and
(iii) Include the family's description of its resources, priorities, and concerns related to enhancing the child's development. 34 C.F.R. § 303.321(c).

Under IDEA Part C, States also have the option to adopt procedures to screen children under the age of three who have been referred to the Part C program to determine whether they are suspected of having a disability. If the lead agency or EIS provider proposes to screen a child, it must provide the parent prior written notice of its intent to screen the child to identify whether the child is suspected of having a disability and include in that notice a description of the

parent's right to request an evaluation at any time during the screening process. Additionally, the lead agency or EIS provider must obtain parental consent before conducting the screening.

If the parent consents to the screening and the screening or other available information indicates that the child is suspected of having a disability, after notice is provided to the parent and once parental consent is obtained, an evaluation of the child must be conducted. If the child is not suspected of having a disability, the lead agency or EIS provider must ensure that notice of that determination is provided to the parent, and that the notice describes the parent's right to request an evaluation. Additionally, if the lead agency or EIS provider has determined that the child is not suspected of having a disability and the parent of the child requests and consents to an evaluation at any time during the screening process, an evaluation of the child must be conducted. 34 C.F.R. § 303.320(a)(3).

With very limited exceptions, any screening under 34 C.F.R. § 303.320 (if the State has adopted a policy and elects, and the parent consents, to conduct a screening of a child), the initial evaluation, and the initial assessments of the child and family under 34 C.F.R. § 303.321, and the initial individualized family service plan (IFSP) meeting under 34 C.F.R. § 303.342 must be completed within 45 days from the date the lead agency or EIS provider receives the referral of the child. 34 C.F.R. § 300.310.

You ask when a previous hearing screening (such as a newborn hearing screening outcome or a hearing screening result provided by an Early Head Start program or a health care provider), can meet the Part C evaluation requirements. As discussed above, the evaluation and assessment of an infant or toddler includes very specific requirements and permits a review of pertinent records related to the child's current health status and medical history to establish eligibility. If, after a review of these records, the lead agency or EIS provider determines additional information is needed to make an eligibility determination or determine the child's service needs, an evaluation must be completed under 34 C.F.R. § 303.321(b).

You also ask how Part C programs ensure that a hearing screening or evaluation is also completed in a timely manner when a child is determined to be eligible for Part C services based on an established condition. A child's medical and other records may be used to establish eligibility (without conducting an evaluation of the child) under Part C if those records indicate either that: (1) the child's level of functioning in one or more of the developmental areas identified in 34 C.F.R. § 303.21(a)(1) constitutes a developmental delay or (2) the child has an established physical or mental condition that has a high probability of resulting in developmental delay (and includes conditions such as sensory impairment or deafness) under 34 C.F.R. § 303.21(a)(2). Therefore, if a child who is determined to be eligible for Part C services based on an established condition is also suspected of being deaf or hard of hearing, the lead agency or EIS provider must complete an assessment of the child under 34 C.F.R. § 303.321. This child assessment must be conducted by qualified personnel to identify the child's unique strengths and needs and the early intervention services appropriate to meet those needs and, as noted above, include the identification of the child's needs in each of the developmental areas in 34 C.F.R. § 303.21(a)(1), which include physical development (including vision and hearing).

Finally, you ask if an initial evaluation has been initiated and the child requires treatment to resolve any temporary medical conditions before the hearing evaluation can be completed (for

example, a child has otitis media which can take a month or more to resolve), how should Part C programs ensure that the child remains actively in the eligibility determination process if the hearing evaluation requires more than 45 days to complete. Under 34 C.F.R. § 303.310(b), the 45-day timeline does not apply for any period for exceptional family circumstances such as when 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. *See* 34 C.F.R. §303.310(b). The situation you describe above appears that it may qualify as an "exceptional family circumstances." In such situations, the lead agency or EIS provider must document in the child's early intervention records the exceptional family circumstances. The lead agency or EIS provider also must complete the screening (if applicable), the initial evaluation, the initial assessments (of the child and family), and the initial IFSP meeting as soon as possible after the documented exceptional family circumstances no longer exist and develop and implement an interim IFSP, to the extent appropriate and consistent with 34 C.F.R. § 303.345. See 34 C.F.R. § 303.301(c).

If you have any further questions, please do not hesitate to contact Lisa Pagano at 202-245-7413 or by email at Lisa.Pagano@ed.gov.

Sincerely,

/s/

Laurie VanderPloeg
Director
Office of Special Education Programs