

LD 135

LD 255

LD 386

Question & Response Document

Funding

This section will be provided to the committee on March 15, 2022.

MaineCare

What guidance has been provided by DHHS and DOE regarding MaineCare reimbursable services on Individual Education Programs (IEPs)?

Joint guidance was provided by MDOE and DHHS in training opportunities in June, 2021. The guidance was outlined in [this document](#), which can also be accessed on the MDOE's Special Services website.

How do proposed DHHS rules for school-based services impact PART B (CDS and SAUs if Part B is moved to SAUs)?

The new MaineCare rule, which has not yet been proposed, will address school health services regardless of setting (CDS v. SAU), so moving Part B from CDS to SAUs would not cause any changes from a MaineCare coverage or billing perspective. MaineCare's plan is to have the new rule include all services needed for a child to access their education, including both Part B and Part C. As more services become MaineCare reimbursable, SAUs that seek MaineCare reimbursement will need to have systems and supports in place to process billing for MaineCare services and there may be an impact on the amount of seed the SAU pays.

Will adoption of the new MaineCare School Health Section of Policy have any unintended consequences in terms of covered services?

- MaineCare does not anticipate discontinuing any services as we establish the new School Health Services Policy. We do anticipate adding services, as outlined during the Office of MaineCare Services (OMS) presentation.
- Here is a link to our January 2022 Stakeholder Engagement slide deck, which provides more detail: <https://www.maine.gov/dhhs/sites/maine.gov.dhhs/files/inline-files/106%20Stakeholder%20Engagement%20FINAL.pdf>

What is the percentage of the 175,000 students that are Maine Care eligible? What percentage of students being served by Child Development Services are Maine Care eligible?

- MaineCare is a health care program, so we do not track public school enrollment, and we do not have access to a list of public school enrollees or students being served by CDS to crosswalk with our MaineCare enrollment data.
- The information below details current MaineCare enrollment by age; as of 12/31/21, there were 90,354 MaineCare members between the ages of 5-18. This figure likely includes MaineCare members who are not public school students, so this figure should not be used to determine what percentage of the 175,000 public school students are enrolled in MaineCare. In addition, the 90,354 captures school-aged children currently enrolled—it does not capture individuals who are eligible but not enrolled in MaineCare.
- In terms of students younger than age 5, as of 12/31/21, there were 29,397 MaineCare members between the ages of 0-4.
- For a School Administrative Unit (SAU) or CDS regional office to seek MaineCare reimbursement for services provided to a student, the student would need to be eligible for MaineCare, and the student’s parent or guardian would need to provide consent for MaineCare enrollment and billing.

MaineCare Enrollment in December 2021	
Age as of 12/31/2021	Member Count
18	5,864
17	6,110
16	6,354
15	6,404
14	6,594
13	6,640
12	6,731
11	6,570
10	6,496
9	6,461
8	6,543
7	6,635
6	6,515
5	6,437
4	6,166

3	6,186
2	6,082
1	5,561
0	5,402
TOTAL	119,751

How does MaineCare provide transportation? Would MaineCare support transportation to a school administrative unit that is providing a Maine Care service?

MaineCare provides members with Non-Emergency Transportation (NET) to schools when a MaineCare-covered service is being provided at the school and when the need for NET and the purpose of the trip are detailed in the member’s Individualized Education Program (IEP). NET is available only if the primary purpose of the transportation is related to the receipt of a MaineCare-covered service, defined as when a student member is accessing a covered service for more than 50% of their day. Transportation is available through two distinct options:

1. Accessing NET through MaineCare’s shared ride system.
 - a. Students access shared transportation, which may include other MaineCare members traveling to other appointments. Brokers are not able to guarantee those other members are children. Brokers depend on contracted providers for ride availability.
 - b. Other states do not often utilize this system due to challenges of transporting minors:
 - i. Requiring a parent or guardian be present
 - ii. Concerns on shared ride system
 - iii. Inability to guarantee the member will be dropped off at a time workable for the school.
 - iv. The process of securing children in child safety seats poses risk concerns for some families, providers, school staff and brokers.
2. SAUs may contract directly with the brokers for transportation services (option may be preferable):
 - a. They can contract directly with any of MaineCare’s three NET brokers, depending on region of the state, as a contracted transportation provider, and would receive reimbursement from the broker them at a negotiated rate.
 - b. SAUs can also request individual mileage reimbursement at a broker pre-determined rate. Several SAUs do this now.

Under these options, SAUs maintain control of who is driving their members, and the timing of pick-ups and drop offs.

- a. SAU oversight of the transportation ensures greater SAU control over the transportation process, including potential safety concerns.

Are the CAP agencies able to bill for MaineCare services?

A CAP agency that is an enrolled MaineCare provider may bill MaineCare for services if it meets the requirements to provide the services for which it bills. CAP agencies that are NET brokers receive direct payment from MaineCare to administer the NET program. Mid-Coast Connector and Penquis are CAPs that are also NET brokers. CAP agencies that contract with these NET brokers and/or with the third NET broker, Modivcare, to provide rides receive payment through the NET broker.

Is developmental therapy a covered service under Maine Care? It was mentioned in the Office of Maine Care Services January 4, 2022 memo on covered services. Also, developmental preschool was included in the OMS 2020 proposed School Services rulemaking, but was not mentioned in the OMS presentation about its forthcoming proposed rule; is there a correlation between developmental preschool not being mentioned in the new presentation and the information on developmental therapy in the memo?

- During the OMS School Health Service rulemaking in 2020, stakeholders expressed concern that the term “Developmental Preschool” is not defined by MDOE or DHHS. Because of this concern, MaineCare plans to exclude this term from its forthcoming policy. Instead, OMS plans to have the new policy focus on the service (Behavioral Supports) and the practitioner delivering the service, as opposed to describing the setting where Behavioral Supports are delivered. Doing this, we have a more accurate description of the services being delivered and eliminate potential confusion/inconsistencies.
- The OMS decision to focus on the Behavioral Supports service and not to use the term “Developmental Preschool” has no connection to the potential coverage of Developmental Therapy services.
- MaineCare does not currently have a covered service definition for Developmental Therapy services. This said, it is possible MaineCare already covers this service or portions of this service through existing policy. In order for MaineCare to develop a service definition for and potentially cover Developmental Therapy, it would be helpful to have a Developmental Therapist credential, to include minimum education requirements, training requirements and scope of work, which may have a formal credentialing process managed by DOE and/or DHHS.

What would it take to broaden the definition of the developmental delay definition?

There is a plan on the national level to develop a national definition for developmental delay, which would lead to consistent eligibility criteria across all the states.

Independent of a change at the national level, Maine would need to change the eligibility criteria for the disability category of developmental delay for Part B in the Maine Unified Special Education Regulations.

How is DOE/CDS addressing low billing of private insurance? Does anything need to be done statutorily or in rules/regs to facilitate increased billing of private insurance?

Overwhelmingly, the inability to gain parental consent to access private insurance is the reason for the low billing rate. Parents are required to grant consent to billing of their insurance for medical services delivered under the child’s Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP). Under IDEA the parents need to determine if accessing of their insurance will adversely impact their lifetime cap. There are provisions in MUSER that prevent special education from accessing private insurance for reimbursement for allowable medical services if it results in expenses for the parent/policy holder.

CDS consistently follows established procedures for third-party reimbursement and requests parental consent to access MaineCare and private insurance at least annually.

Please explain why CDS has not been billing for targeted case management. What can be done to facilitate billing for TCM within CDS and possibly SAU’s?

According to the MaineCare in Education manual (November 2021), targeted case management is not listed as a “Covered Service.” MaineCare policy changed many years ago, which discontinued the ability to bill for targeted case management within the education environment.

Current MaineCare regulations require that the service provider provides targeted case management across all settings and that the recipient choose a single case manager. Some SAUs and CDS regional offices may be challenged by this requirement as the TCM provider would be responsible to support a youth with their needs beyond the school day and outside the school calendar. It is also unclear whether the 282 and 286 teacher of disabilities certification would be accepted for the role of service provider for targeted case management. Special educators and speech therapists in most SAUs and some CDS provide case management as part of their role.

In their January 4th memo, OMS reported that SAUs in several other states are accessing Medicaid funds for targeted case management. More information is needed on possible differences in state statutes and state Medicaid regulations.

How prevalent is the billing for Targeted Case Management to Medicaid in other states across the country?

- It is OMS’ understanding that many states allow reimbursement under Medicaid for case management services delivered by schools. Further information may be available through Child Developmental Services (CDS) as the Public Consulting Group (PCG) researched the issue during their assessment.

Part C: Child Find, Eligibility and Provision of Services

Child Find under IDEA

The Child Find Mandate requires states to implement programs to locate children who might need more support, particularly those who might need services as infants or toddlers. Child Find is written into the IDEA in “Part C,” which protects children 0-3 with known or suspected disabilities in need of early intervention. However, Child Find applies to all children who might need services—through age 22 or until high-school graduation.

The committee was informed that lack of providers was a major contributor to the waitlists. What is being done to address that in Part C?

There is no unmet need in Part C. All children are receiving the early intervention services on their IFSPs.

Who are the primary referral sources for children coming into the Part C system?

Major referral sources from the CDS Annual Report to the Legislature, December 2021 – full table including Part B and all referral sources is on page 4 of the annual report:

Referrals by Source	Part C (EI) Total Referrals	Part C %
Physician/Healthcare Provider	1377	43.1%
DHHS* (Dept categories below table)	589	18.4%
Parent/Guardian	455	14.2%
Hospital	204	6.4%
Head Start/EHS	70	2.2%
Childcare Provider	57	1.8%

***DHHS Department Referrals (totals Part C)**

- Child Abuse Prevention and Treatment (463)
- Children’s Behavioral Health (1)
- Child Welfare/Protective Services (82)
- CSHN Birth Defects Program (8)
- Public Health Nurse (5)
- CSHN Newborn Bloodspot Program (3)
- CSHN Newborn Hearing Program (6)
- Maine Families Home Visiting (9)
- Temp Assistance to Needy Families TANF (0)
- Women, Infants, Children WIC (12)

What is being done to improve child find procedures for Part C?

The Part C Coordinator will continue outreach to primary referral sources to maintain the understanding of the Part C system. The efforts in the last year have significantly increased the number of infants and toddlers in the system.

Has a child find committee been established? If yes, who are the members and if no, will a committee be formed?

A Child Find Committee has not been formed. Child Find is required under federal law and is monitored by and reported to OSEP on an annual basis. Maine's Interagency Coordinating Council (ICC) is currently utilized to help advise CDS on improvement strategies, including child find efforts.

Are there ongoing challenges to Child Find in Part C? Part B?

Maine is currently fulfilling all child find requirements under Part C and Part B Section 619 of IDEA.

Part C:

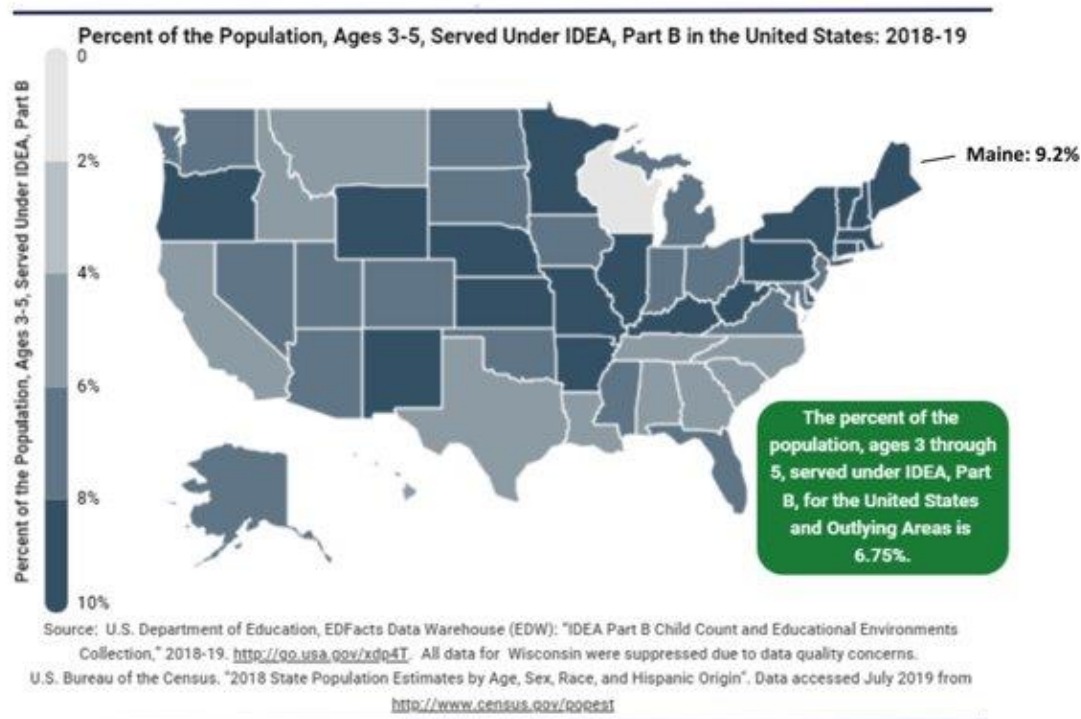
Based on data from the most recent reporting period (July 1, 2020 through June 30, 2021), child find percentages in Part C have increased significantly in the last year; there was a 48% increase in infants (birth to age one) receiving early intervention services. In addition, 80% of children evaluated were found eligible for Part C early intervention services using Maine's current definition of Developmental Delay based on data from the most recent reporting period.

In 2019, OSEP released a report comparing a single-day child count between states. In that report, Maine was below the national average for child find (birth to age one). OSEP has since recognized that a comparison between states is not valid because each state has different eligibility criteria, yielding very different rates of identification. As a result, OSEP no longer requires states to compare their child counts to a national average.

Because OSEP has moved away from this metric, it is problematic to use this 2019 data as evidence of a problem with Maine's child find for Part C.

Part B:

In 2018-19, Maine identified 9.2% of children 3-5. This was higher than the national average, which was 6.75%.



How many children are served in Part C birth to age 3?

Per the CDS Annual Report to the Legislature December 2021, 2,320 children age 0 – 2 were served under Part C during the period from October 1, 2020 through September 30, 2021.

How many children are served that are under one year of age for past five years?

The numbers below are the number of infants based on the CDS October 1 child counts:

10/1/21: 98
 10/1/20: 66
 10/1/19: 77

Child find percentages for birth to age one are calculated based on the number of infants enrolled in Part C, divided by the estimated total number of infants in Maine.

2021: Projected to be 0.80% if estimated population of infants remains the same as 2020 (calculated by OSEP following the annual child count conducted annually on October 1)
 2020: 0.52% (based on data pulled on 10/1/20, during the height of the COVID-19 pandemic)
 2019: 0.83%
 2018: 0.60%
 2017: 0.61%
 2016: 0.74%

2015: 0.62%

2014: 0.65%

[\(State Performance Plans/Annual Performance Reports \(SPP/APR\) - Individuals with Disabilities Education Act\)](#)

What is the target for the Birth –1 year olds to be served in the Part C system?

The child find percentage is used to establish the CDS child find target for birth to age one children. The percentage is used to help set targets and determine performance. OSEP calculates this percentage based on data submitted from Maine's single-day child count that is pulled each year on October 1.

The CDS child find (birth to age one) target for FFY20 was 0.53%, and we met the target at 0.54%. We have proposed a gradual increase in this target over the next 5 years with an end target of 0.65% in FFY25. End targets must be above our baseline of 0.61% from 2017, and they must be accepted by OSEP.

Why does Maine have one of the most restrictive eligibility criteria? What is the DOE/CDS doing regarding eligibility? Do we need to expand Part C eligibility?

Because 80% of children evaluated are determined eligible for Part C, that tells us that most children referred to CDS meet our current definition of Developmental Delay. Maine's definition of Developmental Delay is the same as 16 other states. While we wait to hear what the national eligibility criteria for Part C will be, CDS will continue to focus on increasing established conditions of risk referrals, which make children automatically eligible for Part C. Analysis of referral data indicates that this category may currently be underrepresented in Maine's Part C program.

Maine's definition of Developmental Delay is defined per the Maine Unified Special Education Regulations (MUSER). Our recommendation is to hold off on expanding Part C eligibility until the OSEP-sponsored workgroup determines what the national eligibility criteria will be for Part C. Then, at that time, we would need to look at changing our definition of Developmental Delay (the number of standard deviations below the mean required for eligibility) in MUSER to match the federal criteria for eligibility.

Is it legally possible to keep all 3 year olds in Part C?

No, it is not legal to keep all three year olds in Part C. When a child turns three and is eligible under Part B, Section 619, the child transitions to Part B of IDEA and receives free, appropriate public education (FAPE). The only exception to this is if the state applies to the US Department of Education, Office of Special Education Programs (OSEP) for an Extended Part C Option.

The Advisory Committee recommended that the Maine Department of Education apply for an Extended Part C Option, which will be done this spring, unless the federal government establishes a national standard for the option. The Extended Part C Option will allow families to

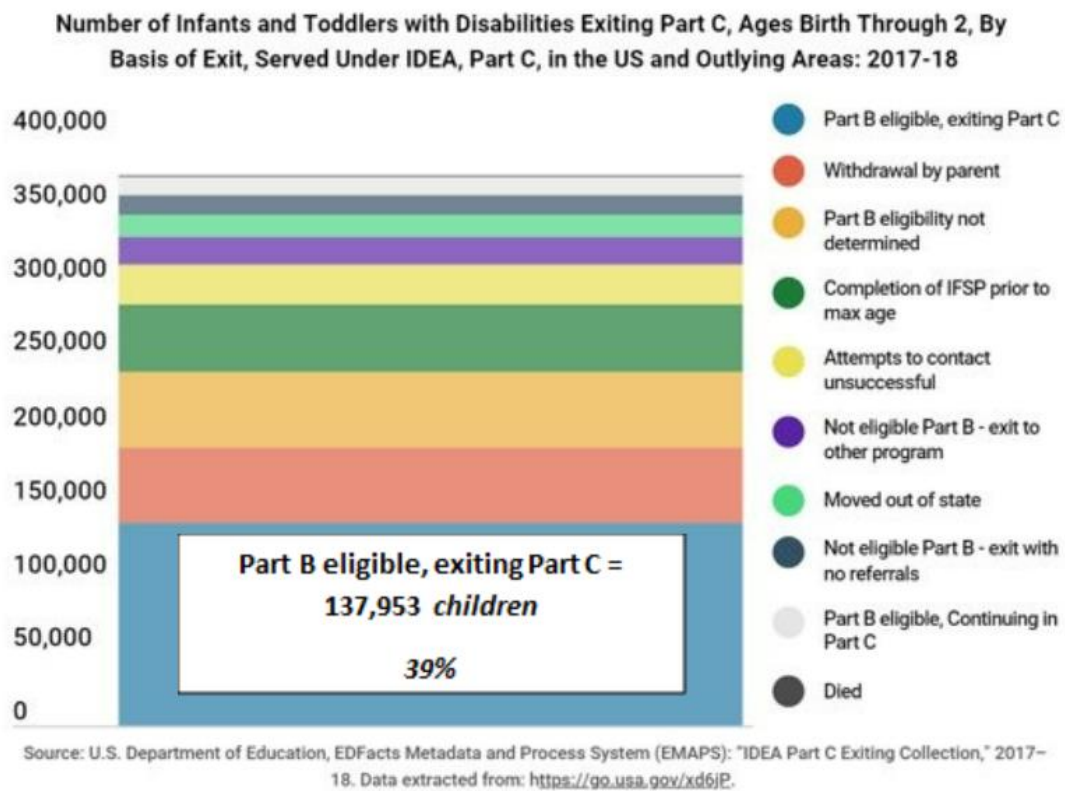
opt to continue to receive Part C services from the time the child turns three until the beginning of the school year following the child's third birthday.

Why are only 40% of the students who qualify in Part C eligible for services in Part B?

Part C Early Intervention Services are broader in scope and eligibility, and specifically designed to address developmental delays at an early age, in part, to alleviate the need for specific special education services later in a child's life. Interventions and the referral process continue to be available for all children in public and private preschools through general education after age three, including children who may exhibit needs after dismissal from Part C.

40% of children in Part C were eligible for services in Part B. In Part B, a child must qualify for special education under one or more of the 15 categories identified in Maine Unified Special Education Regulations. The standard here is that the student has one of the qualifying conditions *and* that the impact of this condition would be severe enough to prevent the child from accessing FAPE.

This is in alignment with national averages as evidenced below:



What is the difference between the system of personnel development as defined in Part C and professional development services?

The system of personnel development is related to ensuring that Maine has a qualified workforce for Part C service provision. Professional development services refer to training that is provided

to personnel to ensure the delivery of high quality, evidence-based services that are implemented with fidelity.

A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources, is one of the 16 minimum components required under Part C of IDEA for a statewide, comprehensive system of early intervention services. Maine's comprehensive system of personnel development is outlined in pages 8-10 of the LD 255 report.

By statute, 20-A MRS section 7209 (3) State IEU: administrative functions, the provision of professional development services is the responsibility of the state intermediate educational unit. The SIEU is to design and implement a statewide plan to provide professional development and training to Child Development Services System personnel.

The federal regulations for Part C of IDEA describe the Comprehensive System of Personnel Development and are outlined below:

[Statute/Regs Main](#) » [Regulations](#) » [Part C](#) » [Subpart B](#) » Section 303.118

303.118 Comprehensive system of personnel development (CSPD).

Each system must include a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. A comprehensive system of personnel development—

[\(a\)](#) Must include—

- [\(1\)](#) Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;
- [\(2\)](#) Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under this part; and
- [\(3\)](#) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under part B of the Act, or another appropriate program.

[\(b\)](#) May include—

- [\(1\)](#) Training personnel to work in rural and inner-city areas;
- [\(2\)](#) Training personnel in the emotional and social development of young children; and
- [\(3\)](#) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and
- [\(4\)](#) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable.

(Approved by Office of Management and Budget under control number 1820-0550)

Extended Part C Option

How does the extended Part C option work at the same time that there is a move to have 3 year olds move under the responsibility of SAUs? How is it done legally?

When a child turns three, they transition from early intervention services in Part C and receive a free, appropriate public education (FAPE). SAUs would be responsible for delivery of FAPE under Part B for three-year-olds. The Extended Part C Option is an option that is open to parents and guardians of children of children who have been served by Part C and are eligible for Part B and who prefer for their three year old to receive early intervention services through an Individualized Family Service Plan (IFSP). MDOE plans to apply to the US Department of Education, Office of Special Education Programs (OSEP) for and Extended Part C Option during the spring of 2022 unless the federal government establishes a national standard for the option.

The State IEU would ensure the continued delivery of early intervention services for children participating in Extended Part C option.

If only two other states have implemented the extended Part C Option, why is it being considered?

The Extended Part C Option was considered because it was included in LD 255.

The current provision of Extended Part C has not been adopted by most states. Some states report the small number of children affected, additional costs for Part C services, delay of FAPE, the application process and limited federal resources to support Extended Part C as reasons for not pursuing the extended option. The Advisory Committee strongly supported the application to the US Department of Education to implement the Extended Part C Option in Maine.

Recent federal legislation to make the Extended Part C option available for all eligible children through the beginning of the school year after the child's 3rd birthday has been included in the federal appropriations bill. When this proposed legislation is enacted, this option would be available to three year olds and the State will no longer need to submit an OSEP application for the Extended Part C option, as it will be available for all.

State Intermediate Education Unit: Structure & Governance

What is a State Intermediate Education Unit?

LD 255 called on the Department to develop a plan for the provision of early intervention services through a quasi-independent government agency structure, with the Department of Education providing oversight as the lead agency pursuant to 20 United States Code, Section 1435, in accordance with this section. The **State Intermediate Educational Unit (SIEU)** is a quasi-independent government agency structure.

The SIEU is established as a body corporate and politic and as a public instrumentality of the State for the purpose of identifying, evaluating and providing early intervention services to eligible infants and toddlers with disabilities from birth to under age three and their families. The exercise by the SIEU of the powers conferred by this chapter is the performance of an essential public function by and on behalf of the State.

The SIEU is the quasi-independent government agency, which includes an external board that is separate from MDOE and is responsible for ensuring that eligible infants and toddlers receive the early intervention services contained in their Individualized Family Service Plan (IFSP), ensure that proper referrals outside of the Part C system for supports are made, ensure transition to Part B, ensure data collection and professional development are implemented.

Is there currently an Executive Director within the CDS system?

At this time, there is not an Executive Director of CDS for the Board of the quasi- state agency. In the proposed statute, the Board of Directors of the State IEU would hire the executive director. The executive director would be responsible for hiring and supervising the SIEU staff and ensuring that the SIEU staff meet all certification and licensure requirement. In the existing structure, there is a CDS State director, which is currently appointed pursuant to state statute 20-A MRS section 7209 (4) which has been in place since the statute required it in 1991. As required under IDEA, CDS currently has a Part C coordinator and Section 619 coordinator.

Transitioning 3-5 year olds to SAUs

Why was July 1, 2023 chosen for the shift of FAPE responsibility to SAUs?

Our current model for the provision of 619 services is inadequate. Over the last 40 years, there have been nearly 40 different attempts to modify or tweak the system. In fact, it is a problem of design. The design problem is that the current structure does not engage the entities that are actually providing public education, making the provision of FAPE

The transition should happen as soon as feasible to ensure supports and services for students who qualify, and a specific date was needed to begin the administrative transition. This date was established early in the transition process to allow SAUs three years to build capacity and strengthen partnerships with private providers who will continue to play a critical role in the provision of services.

This recommendation aligns with the transition development period and FAPE responsibility shift recommended by PCG.

Is the CDS system implementing an entitlement?

The Part C and B programs are entitlement programs under IDEA.

What is the hybrid model?

The hybrid model allows SAUs to assume responsibilities for the provision of services for three to five year olds incrementally, based on the SAU's capacity. While SAUs will assume the responsibility for FAPE on July 1, 2023, other responsibilities will be shared by CDS until July 1, 2026. This allows SAUs to build their capacity over three years.

Based on feedback from Superintendents and Directors, in most cases during this period of transition, the SAU will assume the administrative responsibility and the provision of services will continue to be carried out by contracted community-based providers. In addition, many SAUs report that they will begin with the transition of eligible four year olds before the three year olds, working in a collaboratively with the CDS staff.

How are we intending to serve 3-year olds?

While the FAPE *responsibility* for three-year-olds would change, where and how three-year-olds receive their services *would not*. The Department anticipates that the SAUs will continue the practice of serving three-year-olds in collaboration with private community service providers. Oversight of the IEPs and ensuring appropriate service provision will allow schools to begin connecting and developing relationships with families and children earlier, while in many cases, the actual program will continue to be provided by a community-based / private provider.

The CDS system would remain in place for a transition period of three years (from July 1, 2023 until July 1, 2026) and SAUs would be able to access CDS service providers to provide services during this period.

Will private providers and CDS programs continue to serve eligible children?

Yes! While the FAPE responsibility for three-year-olds would change, where and how three-year-olds receive FAPE services would not; the Department anticipates that the SAUs will continue to serve three-year-olds in collaboration with private community service providers.

What is being done to define and support pathways for contracting with private providers by SAUs?

During the period of transition of Part B services, a hybrid model will be in place.

In the hybrid model, CDS shares the provision of service with SAUs. They collaborate to deliver services based on an SAU’s individual need and existing resources, including, but not limited to, special education services, related services, transportation, and administrative tasks.

While the FAPE responsibility for three-year-olds would change, *where* and *how* three-year-olds receive FAPE services would not; the Department anticipates that the SAUs will continue to serve three-year-olds in collaboration with private community service providers.

The CDS system would remain in place for a transition period of three years (from July 1, 2023 until July 1, 2026) and SAUs would be able to access CDS service providers to provide services during this period.

The SAU self-assessment tool includes identifying community early childhood providers and seat slots in the district’s area, as well as development of MOUs and contracts with community service providers.

How will the SAUs provide least restrictive environment without universal public preschool programs?

The SAUs could continue to utilize contracted community-based providers of early childhood programs to maintain least restrictive environments for children 3-5, in the same manner that the CDS system has done.

How will the Department ensure LRE and avoid regionalized programs?

The Department ensures that “children with disabilities at least 3 years of age and under 22 years of age, including children in public or private institutions or other care facilities, must be educated with children without disabilities. Special classes, separate schooling or other removal of children with disabilities from the regular educational environment may occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” [\(20-A MRS section 7201 \(2A\)\)](#)

Should SAUs decide to collaborate to build regional programs, this does not necessarily denote a special education setting. SAUs could collaborate to build inclusive preschool settings.

Until there are more SAUs offering preschool, community agencies and private providers offering preschool options, or until the state of Maine adopts universal Pre-K, the least restrictive setting consideration for special education will continue with consideration to the available settings and services for children in Part B.

Current CDS Services & Capacity

How many eligible children are not receiving services in Part C and B?

There is no unmet need in Part C; all children eligible to receive Part C services are receiving them. During the last reporting period (FFY20: 7/1/2020 through 6/30/2021), 98.72% of infants/toddlers began receiving their early intervention services within 30 days of their IFSP being developed.

For those children being served through Part B, there were 390 out of 4,457 children not receiving CDS services as of 1/31/2022. 8.8% of three to five year old children with IEPs (Part B 619 students) were not receiving a service identified in their IEP. According to the PCG report, in FY19 10.4% children in Part B 619 were not receiving a service identified in their IEP.

Availability of preschool programs and staffing shortages are the overwhelming reasons that CDS continues to have outstanding needs. The pandemic exacerbated staffing shortages as well as the availability of preschool programs, as nearly 40% of preschool programs in the southern part of the state closed during the pandemic. Of the 390 children with outstanding needs, 47% reside in Cumberland and York counties; the counties that currently have the greatest outstanding needs.

The chart below captures information on placement and service needs of the children reported.

Total Outstanding Needs (# of children)	Waiting Placement in Gen Ed Preschool Program*	Waiting Placement in Spec Ed Preschool Program*	Speech Therapy	Specially Designed Instruction	OT
390	128 32.8%	39 10%	210 53.9%	116 29.7%	104 26.7%

Some children have outstanding needs in more than one service area.

*Some children waiting for placement have outstanding service needs in one or more of the service areas noted.

How actively are efforts being made to reach full staffing?

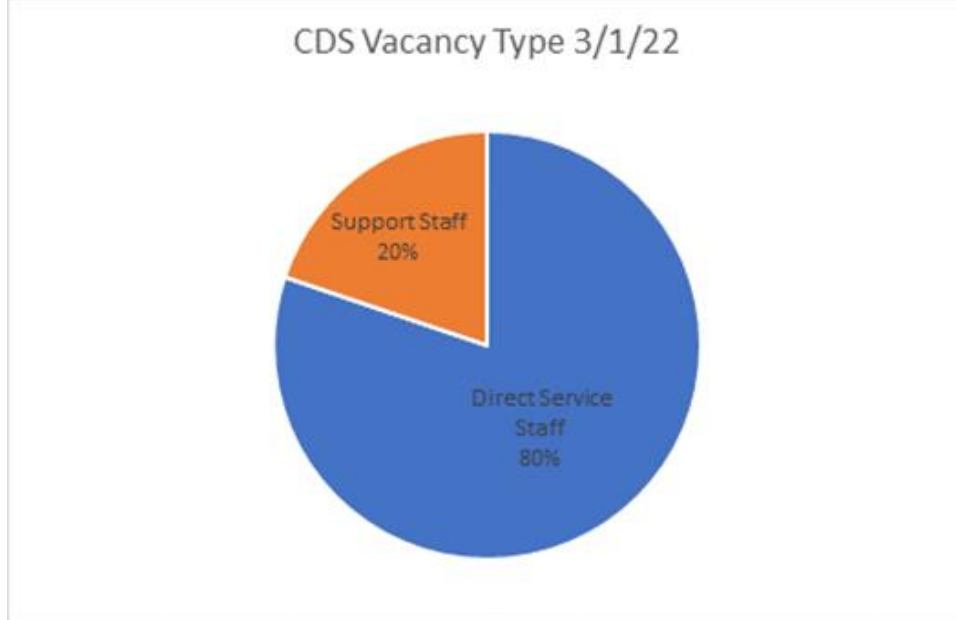
CDS continues to track and monitor outstanding needs monthly and is constantly working to recruit service providers and procure placements for children. These efforts include active job postings, building inclusive preschool programs in areas of greatest need, contracting with private service providers, contracting with SAUs, and offering compensatory services when services have not been provided.

How many open positions existed in CDS at the beginning of 2021 and how many have been filled?

CDS programs operate on a year-round calendar; CDS also provides academic instruction that is based on the school year calendar. Depending on the needs of the students, the demand for services and the capacity of the system, staffing needs change frequently. In general, Part B typically has between 90 and 110 vacancies each month across the state.

CDS Staff Vacancies (March 1, 2022)

	Positions	
	Number of Vacancies	Additional Information
Total Statewide Vacancies	116	
Direct Student Service Positions	93	
Educational Technicians	59	45.6 FTE
Special Education Teachers	7	7 FTE
Speech Therapists/SLPA1	16	16 FTE
Occupational Therapists	2	2 FTE
Physical Therapist	8	8 FTE
Behavior Analyst	1	1 FTE
Support Positions	23	19 site-related support/administrative



Are providers having a problem staying afloat? Has closure of programs been a problem?

There is evidence in Maine and throughout the country that providers have struggled to stay afloat. The pandemic has exacerbated this long-standing problem. 40% of the programs in Cumberland and York counties closed over the past two years during the pandemic, which has impacted the entire CDS system. The cause of these closures has been attributed, in large parts, to staffing challenges ([SURVEY: Four in five child care centers in the U.S. are understaffed | NAEYC](#)).

How would transferring FAPE to SAUs alleviate the staffing issues for Part B? If moving FAPE to SAU's doesn't alleviate the issue, what will state do to protect SAU's from liability of not providing services to the children now in their care?

Transferring FAPE from CDS to SAUs will not completely alleviate the staffing issues for Part B, but it will help to reduce them. At this time, some SAUs are able to provide staff for many Part B services. They are able to hire additional staff or contract for services. SAUs generally offer more competitive wages and benefits, which provides more workforce stability. During the transition CDS staff will be continuing to support children in preschools – in private programs as well as in public programs.

The State of Maine Department of Special Services is ultimately responsible for ensuring that services are provided for eligible children in Part B in Maine. This is the guaranteed protection under IDEA. Additionally, the state is offering to fund due process for Part B for a period of three years, from 2024 to 2026.

Who should be advising on staffing levels if not DOE? Have requirements for square footage and staff to student ratios been established?

Maine Unified Special Education Regulations (MUSER) specify staff to student ratios for Part B and staffing levels for therapists. Part C and Part B also have Department of Education guidelines for case management, teacher caseloads. Square footage for private preschool programs is already established and clearly defined by the DHHS Office of Child and Family Services. Square footage for public preschool classrooms is already established and clearly defined in [Chapter 124: Basic Approval Standards: Public Preschool Programs](#).

Public Preschools: From Chapter 124 Staff to Student Ratios

Class Size: maximum 16 students

Staff to student ratio: 1:8 (including teacher and one classroom assistant Ed Tech II or higher)

How are current staffing levels for each region/site determined and assessed?

Each regional site has a base allocation for staff based on the number of children served and the unique characteristics of the region that affect staffing. Additional staff is requested through the site director if needed based on the individual needs of students or an increased service need beyond the base level of staffing.

Who posts job vacancies both internally and externally? How often updated?

All vacancies are approved by the Part B or Part C administrator and posted through the Department of Education Human Resources Department from requests made by regional sites or the special services department. Position openings are posted on two major job search sites, posted internally at all CDS regional sites, and sent to current CDS employees. The vacancies are reviewed biweekly by each site director, updated, and remain open until filled. As of today, there are 67 open position postings in CDS; some of these postings are for multiple positions.

Facilities, School Approval and SAU Readiness

Will the programs require OCFS approval? Why or why not? What are the school approval processes for early childhood programs? What is the process for approval and what are accountability mechanisms? How does Part B program approval relate to yearly school approval?

The Office of Child and Family Services (OCFS), a division of DHHS, oversees the licensing of all private childcare programs, whether that is family or center based. Licensing through OCFS is focused on the overall safety and healthy atmosphere of a location providing care for children and is incredibly comprehensive. The Special Services Department and CDS require all private programs to be licensed through OCFS. SAUs currently participate in a school approval process that occurs annually. SAUs work with a series of guidelines specific for children 4-5 (preschool and kindergarten). They do not have to get approval from OCFS unless they operate a childcare on site. The Early Learning Team at DOE provides approval and oversight for public Pre-K programs. Public Pre-K programs are required to provide space and programming for children with and without disabilities.

The CDS Memorandum of Understanding process for private-licensed facilities to provide settings for special education services requires the DOE to confirm approved licensure before a CDS contract is put in place with the location (LD 386 Report).

How will you assess SAU readiness and capacity?

The Department has successfully collaborated with SAUs to open new programs. The Department is also working with SAUs to build strong, collaborative relationships with community providers.

This side-by-side work with SAUs has allowed us to refine our process and, building upon the Department's [Guide to High Quality Publicly Funded Preschool](#), we continue to refine our process for assessing readiness and targeting supports to districts based on what their needs.

How will state ensure age-appropriate physical plant, recreation and materials for Part B?

SAUs who are already operating Pre-K programs have facilities that meet rigorous safety standards for young children. Many SAUs also partner with local providers who have OCFS-approved facilities. Pre-K start-up and expansion grants are currently being offered, with additional funding rounds planned over the next 2 years, and these one-time capacity-building grant opportunities will support expansion of safe facilities.

In the past year, the CDS system has developed 11 new preschool programs to serve eligible 3-5 year old children in age-appropriate, approved preschool locations that are designed to meet inclusive preschool program design. These programs utilize appropriate recreation, classroom furniture and materials.

Are the existing buildings able to accommodate 3 and 4 year olds?

While many SAUs will collaborate with private preschools to provide services to three and four year olds, some SAUs are also exploring how to incorporate programming into their schools. An initial analysis of public preschools noted 152 SAUs currently offer at least one public Pre-K classroom in 239 Maine schools or in community partner sites. A graphic from the Maine DOE Early Childhood website maps out the locations of these classrooms across the state.

<https://www.maine.gov/doe/learning/earlychildhood/publicpreschool>

For the FY23 workplan, Maine Education Policy Research Institute (MEPRI) will develop on mapping capacity and surveying SAUs for information on unit capacity, staffing, and physical space. MEPRI has agreed to assist in developing an in-depth survey to understand preschool readiness in partnership with the development of a readiness assessment and in consideration of the SAU readiness tool presented by the Public Consulting Group.

What is the intent on page 12, 3.(B) regarding the commissioner shall consider any school administrative space necessary for providing early childhood special education and related services as instructional space or regional programs and services space under section 15672, subsection 2-A, paragraph B.

This section references the allowance for debt service for subsidy in EPS for lease space. This was included at the time of LD 1715 proposed 2018, carried over to 2019, to allow SAUs to consider allowances for debt service to lease spaces, determined at that time as important by the then Deputy Commissioner Suzan Beaudoin.

What will happen to the regional CDS sites?

There will be a transition of staff to serve the Part C eligible children within the State IEU and other staff to serve eligible three to five year old children during the next three years as children begin to be served under the administrative oversight of the SAUs. The regional sites will continue to be in place throughout the transition of the Part C program into the refined State IEU and the Part B, Section 619 program responsibilities into the SAUs by July 1, 2026.

CDS will monitor needs for regional sites throughout this process and will make recommendations to the Commissioner of Education to revise or reduce site and satellite locations.

How will we build capacity for each county?

Regional capacity will be built over time by examining the readiness of individual SAUs as it relates to space, staffing and resources to serve first the 4 year olds in their catchment area and then the 3 year olds. The Department and the CDS staff will support the transition of services through provision of technical assistance and funding to serve the eligible children.

Part of the transition/implementation planning includes providing services through four Transition Team Specialists to work with SAUs across the state as each SAU assesses capacity and readiness. Provision of 3-4 transition specialists was a recommendation of the PCG group and a recommendation included in the DOE fiscal planning.

Supporting Current CDS Employees Through The Transition

Our CDS staff are some of the most knowledgeable and committed professionals in the state. Their experience and expertise are valued and planning for next steps in the transition includes CDS colleagues.

How will the CDS staff be addressed in the transition?

Over the years of the transition, we know there are question that range from positions to benefits. While the Department looks forward to ongoing discussions with CDS staff, the Department has initiated discussions with Me PERS to explore the means of addressing transitioning personnel from the CDS system to the SAUs. After review by Me PERS discussions will occur to refine the detail in the timeline proposal provided to the committee.

Please describe the Department's plan to protect CDS staff. Please address the following:

Pensions/retirement if they move to work in public schools?

In collaboration with Me PERS, the Department has explored the options for transitioning personnel from the CDS system to the SAUs. Work continues to refine the details in the timeline proposal provided to the committee.

Certification and professional development plan for transition from childcare to public education relative to timing and capacity:

There are currently certifications in Chapter 115 for teachers of young children, birth –5.

The Department has conducted two rounds of surveys of CDS staff to determine which types of coursework are needed for the staff to increase their credentialing levels. Federal funds have been allocated to support the needed coursework for staff to take. Professional development is being developed to support contracted providers in the transition process.

How the protections through MSEA-SEIU contracts will be preserved

The Department will implement staffing support and transition process for CDS staff, including individual transition planning. Details of the steps to be undertaken are contained in the timeline for transition between now and July 1, 2026.

Transportation

The Maine DOE provides a comprehensive guide to transporting preschool children, including resources for the appropriate uses of restraints: [Transporting Preschool Students](#)

How will the state ensure safe transportation of Part B children?

The current transportation services under the CDS/Private provider model are of extreme concern. In many cases, there is no transportation service available, or parents receive reimbursement/pay for driving their own children. In other cases, children are sharing rides with MaineCare service recipients of all ages. SAUs receive reimbursement for transportation costs and can replicate some of the current practices where necessary (for example, paying parents to transport). In addition, SAUs have safe vans and buses with trained drivers and CHRC-approved drivers.

Transportation requirements are in place for all preschool age children and SAUs will be responsible for ensuring safe transportation practices that align with Maine school transportation regulations, including child safety restraint systems and retrofitted buses that are currently in service. The Department will support SAUs in designing local solutions that are responsive to the varied geography and capacity in each community.

In the draft statute page 12, 3.(C) clarify the seat belts and car seats as allowable components for bus purchases.

With three and four year old children who are smaller than kindergarteners, the intent is to allow seat belts and car seats to be included in bus purchases.