

Enclosure B

I. Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on Louisiana's Federal Fiscal Year (FFY) 2005 grant award under Part C of the Individuals with Disabilities Education Act (Part C of the IDEA). Due to the State's long-standing failure to comply with the requirements of Part C of the IDEA, OSEP's FFY 2004 Part C grant award letter to Louisiana designated the State as a high-risk grantee, and imposed Special Conditions, pursuant to 34 CFR §80.12, in the following four areas of noncompliance. As detailed below, the State has failed to meet its FFY 2004 Special Conditions, the Department is imposing Special Conditions on the State's FFY 2005 Part C grant award on these four noncompliance areas:

1. 45-day timeline under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a);
2. IFSP meeting and parent consent under 34 CFR §303.342;
3. Identifying all needed early intervention (EI) services on the IFSP under 34 CFR§303.344(d); and
4. Providing all EI services on IFSP to eligible child under 34 CFR §303.342(e).

OSEP's 2001 Monitoring Report directed the State to develop and implement improvement strategies to ensure timely correction of all areas of noncompliance identified in the report, including the four findings listed above. On June 27, 2002, in response to OSEP's 2001 Monitoring Report, the Louisiana Department of Education (LDE), the State's designated lead agency for Part C at that time, submitted the State's Part C Improvement Plan that proposed to address each of the four areas of noncompliance. OSEP's February 12, 2003 response to the State's Improvement Plan accepted the Plan and informed the State that it must provide OSEP with documentation that the State had corrected all areas of noncompliance no later than February 12, 2004.

Pursuant to the State's Part C FFY 2004 Special Conditions, the State was required to ensure that, by December 31, 2004, it had corrected the four noncompliance areas identified above, and submit the required documentation by October 15, 2004 and January 15, 2005. As further detailed below, although the State's October 15, 2004 Progress Report, Revised March 2, 2005 Progress Report and June 16, 2005 Final Progress Report showed progress toward correction in each of these four areas of noncompliance, the June 2005 Report also included data and information showing that the State has not completed correction in any of these areas.

II. Basis for Requiring Special Conditions and Nature of the Special Conditions

1. Conduct evaluations and assessments and convene the initial Individualized Family Service Plan (IFSP) meeting within 45 days of referral under 34 CFR §§303.321(e), 303.322(e) and 303.342(a).

a. Basis for requiring special conditions:

In its February 2005 Progress Report, the Louisiana Department of Health and Hospitals (DHH), Louisiana's lead agency under Part C, indicated the percentage of infants and toddlers whose initial evaluation and assessment were completed and an initial IFSP meeting was held within 45 days from referral for December 2004. Data indicated 9 System Points of Entry (SPOEs) reporting that 90% - 100% of initial IFSP meetings were held within 45 days from referral, 3 SPOEs reported that 80% - 89% of initial IFSP meetings were held within 45 days from referral; and the remaining 7 SPOEs reported below 80% of initial IFSP meetings were held within 45 days from referral.

In its June 2005 Progress Report, DHH indicated that the Regional Coordinators and Quality Assurance Specialists (QASs) review SPOE IFSP timelines on a quarterly basis and provide technical assistance on corrective action plans. For those SPOES with repeated noncompliance and not fully implementing corrective action plans, DHH reports financial sanctions and/or cancellation of the contract are possible actions that may be taken. The

June 2005 Progress Report failed to identify the specific corrective actions DHH has implemented or intends to implement with the SPOEs that are in noncompliance with the 45-day timeline.

b. Nature of special conditions:

In the first progress report, due on October 30, 2005, DHH must provide:

1. Data for all 19 SPOEs (already being collected by DHH) for July, August, and September 2005 showing the percentage of infants and toddlers for whom initial evaluations and assessments were completed and the initial IFSP meeting held: (a) within 45 days from referral; and (b) longer than 45 days from referral, and for this number, disaggregating by number any children for which the State has documented explanations due to family circumstances outside the lead agency's control; and
2. A list of SPOEs identified by the State as being in noncompliance with the 45-day timeline requirement in the State's FFY 2003 APR, and for each SPOE: the State's analysis of the causes for those delays in each SPOE, and the corrective actions approved by the State (including data required by the State of the SPOE to demonstrate correction) to ensure correction as soon as possible, but no later than April 1, 2006.

In the second progress report, due on April 15, 2006, DHH must provide updated data and information under 1 and 2 above for the months of October 1, 2005 through March 30, 2006.

2. Convene an IFSP meeting and obtain parental consent prior to eliminating or reducing early intervention services as required under 34 CFR §303.342(e).

a. Basis for requiring special conditions:

In its February 2005 Progress Report, DHH indicated it is using two methods of monitoring to ensure that IFSP meetings are convened prior to the elimination of or reduction in services: (1) Monitoring Child Records; and (2) Conducting a Family Survey. The QASs monitor SPOEs and the Family Service Coordination Agencies (FSCs). The Progress Report indicated FSC monitoring was to be completed by March 2005. The State reported in its February 2005 Progress Report data from the family survey it conducted in September 2004 indicating 87% of families did not have services increased, reduced, or eliminated without permission of the family and an IFSP team meeting taking place prior to any changes. In its June 2005 Progress Report, DHH indicated updated data from its final monitoring reports was not yet available.

b. Nature of special conditions:

In the first progress report, due on October 30, 2005, DHH must provide:

1. Monitoring data for the months of July, August and September 2005 identifying by entity any findings of noncompliance with the requirements of 34 CFR §303.342 that the State has made, and for each finding made, the corrective action required by the State and the status of correction of each finding; and
2. Updated data from its FSC monitoring review for this requirement.

In the second progress report, due on April 15, 2006, DHH must provide updated monitoring data and information under 1 and 2 above for the months of October, November, December 2005, and January, February and March 2006.

3. Identify on the IFSP all early intervention services needed to meet the unique needs of the child and family under 34 CFR §303.344(d).

a. Basis for requiring special conditions:

In its February 2005 Progress Report, DHH indicated three methods of monitoring are used to ensure that the IFSP identifies all early intervention services needed to meet the unique needs of the child and family: (1) Monitoring Child Records; (2) Conducting a Family Survey;

and (3) Service Coordinator Interview. The State reported that QASs monitor SPOEs and the FSC agencies. The Progress Report indicated FSC monitoring was to be completed by March 2005. The State reported family survey data indicating 91% of families had concerns about their child's development addressed and 92% of families reported that the services the child received were appropriate for their child and family. In its June 2005 Progress Report, DHH indicated that the FSC agencies final monitoring reports were not yet available and that follow-up monitoring would be conducted in August 2005 – October 2005 to verify the noncompliance is corrected.

b. Nature of special conditions:

In the first progress report, due on October 30, 2005, DHH must provide:

1. Monitoring data for the months of July, August and September 2005 identifying by entity any findings of noncompliance by the State with the requirements of 34 CFR §303.344(d) that the State has made, and for each finding made, the corrective action required by the State and the status of correction of each finding; and
2. Updated data from its FSC monitoring review for this requirement.

In the second progress report, due on April 15, 2006, DHH must provide updated monitoring data and information under 1 and 2 above for the months of October, November, December 2005, and January, February and March 2006.

4. Provide the early intervention services listed on the child's IFSP under 34 CFR§303.342(e).

a. Basis for requiring special conditions:

In its February 2005 Progress Report, DHH indicated three methods of monitoring are or will be used by the State to ensure that the early intervention services listed on the IFSP are provided: (1) Monitoring Child Records; (2) Conducting a Family Survey; and (3) Reviewing Early Intervention Data System (EIDS) Data but also indicated at that time that FSC monitoring data and EIDS data were not yet available. However, the State reported in its February 2005 Progress Report data from the family survey indicating that 28% of families are not receiving the early intervention services listed on the IFSP. The State reported the cause of the noncompliance as a lack of providers in a specific geographical location. The State also reported in its June 2005 Progress Report the results of its Spring 2005 Family Continuous Quality Improvement (CQI) Phone Interviews as part of its efforts to improve services and ensure that the early intervention services listed on the IFSP are provided. Data from this CQI interview indicated 83% of families were receiving the services listed on the IFSP, 11% indicated the services were not being received and 6% indicated they were not sure or it was not applicable.

b. Nature of special conditions:

In the first progress report, due on October 30, 2005, DHH must provide:

1. Statewide data for July, August and September 2005 showing the number and percentage of eligible infants and toddlers who receive in a timely manner the early intervention services on the IFSPs and the number and percentage of children who do not receive such services (including any for which the State has documented explanations due to family circumstances outside the lead agency's control); and
2. A list of SPOEs identified by the State as being in noncompliance with the service provision requirement in 34 CFR §303.342(e) in the State's FFY 2003 APR, the State's analysis of the causes for noncompliance with this requirement in each SPOE, and the corrective actions approved by the State (including data required by the State of the SPOE to demonstrate correction) to ensure correction as soon as possible, but no later than April 1, 2006.

In the second Progress Report, due on April 14, 2006, the State must provide updated data and monitoring information under 1 and 2 above for October 1, 2005 through March 30, 2006.

III. Evidence Necessary for Conditions To Be Removed

The Department will remove the special conditions if, at any time prior to the expiration of the grant year, Louisiana provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Louisiana to submit data demonstrating compliance with each area of noncompliance subject of the special conditions under Part C:

1. Conducting evaluations and assessments and the initial Individualized IFSP meeting within 45 days of referral under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a);
2. Convening an IFSP meeting and obtain parental consent prior to eliminating or reducing early intervention services under 34 CFR §303.342(e);
3. Identifying on the IFSP all early intervention services needed to meet the unique needs of the child and family under 34 CFR §303.344(d); and
4. Providing the early intervention services listed on the child's IFSP under 34 CFR §303.342(e).

IV. Method of Requesting Reconsideration

The State can write to Troy R. Justesen, Acting Director, OSEP, if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

V. Submission of Reports

All reports that are required to be submitted by Louisiana to the Department under the Special Conditions should be submitted to:

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Education Program Specialist
U.S. Department of Education
Office of Special Education Programs
Room 4013
555 12th Street, SW
Washington, DC 20202