

Enclosure B

Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on Nevada's Department of Human Resources (NDHR) Federal Fiscal Year (FFY) 2005 grant award under Part C of the Individuals with Disabilities Education Act (Part C). The special conditions are imposed to address the following two areas of noncompliance and to ensure the timely identification, evaluation and transition of infants and toddlers with disabilities under Part C:

1. Ensuring all eligible infants and toddlers have evaluations and assessments and an initial Individualized Family Service Plan (IFSP) meeting within 45 days of referral to the early intervention program (45-day timeline). See 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a).
2. Ensuring all children receiving Part C services and potentially eligible for Part B have transition planning conferences at least 90 days prior to the child's 3rd birthday (transition conference). See 34 CFR 303.148(b)(2)(i).

OSEP's February 5, 2003 letter identified noncompliance with the 45-day timeline based on NDHR's Part C 2001 Self Assessment data and February 2004 Improvement Plan, which reported (on page 33) that 510 children were on a waiting list for 45 day timeline. The State proposed in its February 2004 Improvement Plan a target of 100% compliance on the 45-day timeline. OSEP's November 2004 letter accepting the Nevada's Part C Improvement Plan instructed the State to submit data documenting correction of the noncompliance by the State's FFY 2003 Annual Performance Report (APR) due March 31, 2005.

The State reported in its March 28, 2005 Part C FFY 2003 APR (on page 6) that "The waiting list¹ decreased from 510 on July 1, 2003 to 204 children on June 30, 2004, a reduction of 60%." During OSEP's January 2005 focused monitoring trip to Nevada, NDHR provided then-current data reports indicating that only 109 of 582 (approximately 19%) children with new IFSPs from July 2004 through December 2004 had an IFSP "in place" within 45 days of referral. The State reported in its FFY 2003 APR (on pages 16 through 18) historical data indicating persistent noncompliance with Part C's 45 day timeline requirements.

OSEP's February 5, 2003 letter confirmed Nevada's identification of noncompliance related to transition conference requirements based on the State's 2001 Self Assessment and 2002 Improvement Plan. Nevada proposed in its 2002 Improvement Plan and revised 2004 Improvement Plan to correct this area of noncompliance. OSEP's February 5, 2003 letter accepting the State's Improvement Plan directed the State to provide evidence that noncompliance was corrected by February 2004; however given the State's lack of baseline data, OSEP's November 2004 APR letter extended the State's deadline to submit data demonstrating compliance until the State's FFY 2003 APR due March 31, 2005. The State's

¹ Waiting list refers to any child who waited beyond 45 days for an initial IFSP meeting. Although the State clarified during OSEP's January 2005 verification visit, that its policies were to wait to hold the initial IFSP meeting for an eligible child until proposed IFSP services were available, the State has not ensured that it is meeting the Part C requirements at 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).

March 28, 2005 FFY 2003 stated that, "...children are not consistently receiving transition planning through a written plan or a 90-day transition meeting" (page 46).

Pursuant to the Special Conditions, the State must ensure that, by March 31, 2006, it has corrected noncompliance in the two areas identified above.

2. Nature of the Special Conditions

NDHR must submit in the State Performance Plan (SPP), due December 2, 2005:

- A. Data (already being collected by the State) for August, September, October and November 2005, disaggregated by Region showing the number and percentage of infants and toddlers for whom initial evaluations and assessments and the initial IFSP meeting was conducted: 1) within 45 days from referral; 2) more than 45 days from referral, and for this data, the number who exceeded the timeline due to documented explanations of family circumstances outside the lead agency's control;
- B. Data for August, September, October and November 2005, disaggregated by Region, showing the number and percentage of children potentially eligible for Part B who have a transition planning meeting at least 90 days prior to the third birthday; for children who do not have a transition planning meeting at least 90 days prior to the third birthday, data and descriptions for why the timeline was not met (this data may be collected through sampling or monitoring);
- C. Compliance measures taken by the State through November 30, 2005 and disaggregated by Region (including the enforcement actions referenced on page 26 of the Improvement Plan) to address identified noncompliance with the 45-day timeline and transition conference requirements;
- D. Strategies implemented by the State to address the personnel shortages, including collaboration with training institutions in the State.

NDHR must submit in a final progress report due by April 14, 2006:

- A. Data (already being collected by the State) for December 2005 and January, February, and March 2006, disaggregated by Region showing the number and percentage of infants and toddlers for whom initial evaluations and assessments and the initial IFSP meeting was conducted: 1) within 45 days from referral; 2) more than 45 days from referral, and for this data, the number who exceeded the timeline due to documented explanations of family circumstances outside the lead agency's control;
- B. Data for December 2005 and January, February, and March 2006, disaggregated by Region, showing the number and percentage of children potentially eligible for Part B who have a transition planning meeting at least 90 days prior to the third birthday; for children who do not have a transition planning meeting at least 90 days prior to the third birthday, data and descriptions for why the timeline was not met (this data may be collected through sampling or monitoring);
- C. An update from December 1, 2005 through March 30, 2006 of items due in the October 28, 2005 report under C and D above..

3. 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, Nevada provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Nevada to submit data demonstrating compliance related to the 45-day timeline and the transition conference requirements that are the subject of the special conditions under Part C.

4. Method of Requesting Reconsideration

The State can write to Troy R. Justesen 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.

5. Submission of Reports

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

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Kelly Worthington
400 Maryland Ave, SW
Washington, DC 20202-2550