



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

July 1, 2021

Honorable Motusa Tuileama Nua  
Director  
American Samoa Department of Health  
P.O. Box 5666  
Pago Pago, American Samoa 96799

Dear Director Nua:

We have conditionally approved the American Samoa's grant application for Federal fiscal year (FFY) 2021 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the IDEA Part C grant application, submitted by American Samoa Department of Health (ASDOH) to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 7, 2021.

Our conditional approval of American Samoa's FFY 2021 IDEA Part C grant application is also based on American Samoa's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A.

Our conditional approval is also based on American Samoa's certification in Section II.D of its FFY 2021 IDEA Part C grant application, signed by you on May 7, 2021, in which American Samoa certifies under 34 C.F.R. § 76.104 that it will:

1. Operate throughout the period of the FFY 2021 grant award consistently with the requirements of IDEA Part C as found in 20 U.S.C. §§ 1431 through 1443 and the regulations in 34 C.F.R. Part 303; and
2. Make such changes to existing policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of IDEA Part C, as soon as possible, and not later than either the date indicated by American Samoa in Section II.A or B of its application or June 30, 2022, whichever is earlier.

American Samoa's FFY 2020 IDEA Part C grant award is also being released subject to the fiscal Specific Conditions regarding internal control deficiencies and the Single Audit Act as described in the enclosed Department's June 29, 2021 letter to American Samoa (which is Enclosure C and incorporated by this reference to this grant letter). These Department-wide Specific Conditions regarding the Single Audit Act are imposed pursuant to the Department's authority in IDEA Sections 616(g) and 642 and 2 C.F.R. §§ 200.208 and 3474.10. The Department imposes Specific Conditions on American Samoa's Government for all Department grants to the American Samoa (including the IDEA Part C FFY 2021 grant) to ensure fiscal accountability of grant funds. By accepting this grant award, American Samoa expressly agrees

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to comply with the Specific Conditions identified in Enclosure C throughout the period American Samoa uses its IDEA Part C FFY 2021 funds.

As part of American Samoa's application for IDEA Part C FFY 2021 funds, American Samoa has provided a certification, under Section II.D of its FFY 2021 grant application and pursuant to 34 C.F.R. § 76.104, that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2021 grant period.

Enclosed is American Samoa's FFY 2021 grant award for funds currently available under the Consolidated Appropriations Act of 2021 (Public Law 116-94) (CAA), for the IDEA Part C program. This grant award is subject to all the terms and conditions of the American Samoa's FFY 2021 IDEA Part C grant application. These funds are available for obligation by American Samoa's from the effective date of the grant award, July 1, 2021 through September 30, 2023, in accordance with 34 C.F.R. § 76.709.

American Samoa submitted its Section III-Use of Funds as part of its FFY 2021 IDEA Part C grant application to reflect the allotment for this award. Once the enclosed CAA award is made, American Samoa may need to amend this Section III document under 2 C.F.R. § 200.308. The requirements for Section III amendments are discussed in Section 4 of the OSEP Memo 21-02 IDEA Part C FFY 2021 Grant Application Procedures.

Under IDEA Section 605, and 2 C.F.R. Part 200, and 34 C.F.R. § 303.104, States must obtain prior approval to charge certain expenses as direct costs. On October 29, 2019, the Office of Special Education and Rehabilitative Services (OSERS) released a Frequently Asked Questions (2019 FAQs) document on prior approval.<sup>1</sup> American Samoa identified, and OSEP approves, the request to charge rent as listed in Section III of its grant application as direct costs to the FFY 2021 IDEA Part C grant. The State lead agency must ensure that such costs are reasonable, necessary, and allowable to the IDEA Part C grant.

Section IV.B of the IDEA Part C FFY 2021 application requested updated information about how your lead agency implements the restricted indirect cost rate requirements in 34 C.F.R. § 303.225(c). ASDOH indicated in Section IV.B that it has a restricted indirect cost rate of 12.7% that expires on 9/30/21, and the State lead agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2021 grant period. In Section IV.B, your lead agency also indicated it will continue to bill IDEA Part C FFY 2021 grant funds based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2021. Under 2 C.F.R. § 200.210(a)(15), by accepting the enclosed IDEA Part C grant awards, your State lead agency must provide documentation to our Indirect Cost Division *before* it can continue to bill IDEA Part C grant funds based on this previously approved restricted indirect cost rate, to the extent authorized by your cognizant Federal agency, until a final restricted indirect cost rate agreement is approved for FFY 2021. When a final restricted indirect cost rate is approved by your cognizant Federal agency for FFY

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<sup>1</sup> Prior approval must be obtained under IDEA for the following direct costs: (1) equipment (2 C.F.R. § 200.1 and 34 C.F.R. § 303.104); (2) participant support costs (2 C.F.R. § 200.1); (3) rent (2 C.F.R. § 200.465 and 34 C.F.R. § 303.225(d)); and capital improvements (IDEA Section 605 and 34 C.F.R. § 303.104). Under the 2019 FAQs, OSERS granted prior approval for participant support costs under IDEA that: are associated with State Interagency Coordinating Councils; incurred during the provision of services under IDEA; do not exceed \$5000 per individual participant per training/conference. In addition, the 2019 FAQs provide prior approval for equipment that is identified on or directly related to the implementation of the IFSP.

2021, you must forward a copy of it to the Department’s Indirect Cost Division and to your OSEP State Lead.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11<sup>th</sup> amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act].” Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, American Samoa is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award of FFY 2021 IDEA Part C funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

If the American Samoa adopts a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or under the regulations in 34 C.F.R. Part 303, it must subject those policies and procedures to the public participation requirements in 34 C.F.R. § 303.208 and, for those policies and procedures specifically referenced in 34 C.F.R. § 303.101(c), receive OSEP approval prior to their implementation.

As a reminder, all prime recipients of IDEA Part C funds, must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <https://www.fsrs.gov/>. Please contact your Fiscal Accountability Facilitator if you have further questions.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,



David Cantrell, Ph.D.  
Delegated the authority to perform the  
functions and duties of the Assistant  
Secretary for the Office of Special  
Education and Rehabilitative Services

Enclosures

- Enclosure A (Sections II.A-C of the State’s application)
- Enclosure B (Section II.D of the State’s application)
- Enclosure C (Department-wide Specific Conditions)

cc: Part C Coordinator

**State Name: American Samoa**

**Enclosure A**

**Section II**

**A. State Policies, Procedures, Methods, and Descriptions**

As checked below, the State hereby declares that it has or has not filed the following policies, procedures, methods, and descriptions with the U.S. Department of Education, and, as of the date of the signature below, affirms and incorporates by reference those policies, procedures, methods, and descriptions with respect to Part C of the Individuals with Disabilities Education Act (IDEA or Act) in 20 U.S.C. 1431–1443 and the Part C regulations in 34 CFR Part 303 (Part C). By submission of this Section II, the State assures that throughout the period of this FFY 2021 grant award, the State will operate consistently with all requirements of Part C of the IDEA in 20 U.S.C. 1431 through 1443 and the Part C regulations in 34 CFR Part 303. The State will develop and/or make such changes to existing policies, procedures, methods, descriptions, and assurances as are necessary to bring the policies, procedures, methods, descriptions, and assurances into compliance with the requirements of the IDEA Part C Act and regulations by the date indicated below and not later than June 30, 2022.

- Check and enter date(s) as applicable.
- Enclose relevant documents.

**Yes** (If New or Revised is checked, the State is submitting policies, procedures, methods, and descriptions with this application. If already 'On File with OSEP', check OF.)

**N** = 'New' Policy and/or Procedure

**R** = 'Revised' Policy and/or Procedure

**OF** = Policy and/or Procedure is already 'On File' with the USDE

**No** (Policies, procedures, methods, and descriptions have not been provided. Provide date by which State will submit to OSEP required documentation, which date shall be no later than June 30, 2022.)

Yes: N	Yes: R	Yes: OF	No	State Policies, Procedures, Methods, and Descriptions
—	—	—		<b>Subpart C—State Policies and Procedures</b>
		X	—	1. Each application must include the name of the State lead agency, as designated under §303.120, that will be responsible for the administration of funds provided under this part. (34 CFR §303.201)
		X		2. Each application must include a description of services to be provided under Part C to infants and toddlers with disabilities and their families through the State’s system. (34 CFR §303.203(a))
—	—	—	—	3. Each application must include the State’s policies and procedures regarding the identification and coordination of all available resources within the State from Federal, State, local, and private sources as required under subpart F of 34 CFR Part 303.

				<p><i>The State must have policies and procedures that meet the requirements listed in 3(a) and the methods identified in 3(b), and must provide responses to those entries. If the State has not adopted a system of payments, it may respond "NA" to 3(a).</i></p>
			N/A	<p>(a) If the State has adopted a system of payments, each application must include any policies or procedures adopted by the State as its system of payments and those policies and procedures must meet the requirements in §§303.510, 303.520 and 303.521 (regarding the use of public insurance or benefits, private insurance, or family costs or fees).</p> <p>(34 CFR §303.203(b)(1))</p> <p><b><i>The policies and procedures listed in 3(a) are optional. Enter 'NA' in the cells to the left if the State has elected not to adopt a system of payments (which includes a system to use public insurance or benefits or private insurance or family fees to pay for Part C services); otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach policies and procedures. The State's response under 3(a) of Section II.A must match the State's response under Section IV.A.</i></b></p>
			N/A	<p>(b) Each application must include the methods (State law, regulation, signed interagency or intra-agency agreements or other appropriate written method(s) approved by the Secretary) used by the State to implement the payor of last resort and fiscal responsibility requirements in §303.511(b)(2) and (3).</p> <p>(34 CFR §303.203(b)(2))</p> <p><b><i>If the State uses signed interagency agreements or "other appropriate written method(s)" to meet the requirements in 3(b), please check 'N' or 'R' and submit with the application. If the State's method is a State statute or regulation, the State does not need to submit that method (the statute or regulation) with its application.</i></b></p>
		X		<p>4. Each application must include the State's rigorous definition of developmental delay as required under §§303.10 and 303.111. Each Statewide system must include the State's rigorous definition of <u>developmental delay</u>, consistent with §§303.10 and 303.203(c), that will be used by the State in carrying out programs under Part C of the Act in order to appropriately identify infants and toddlers with disabilities who are in need of services under Part C of the Act. The definition must—</p> <p>(a) Describe, for each of the areas listed in §303.21(a)(1), the evaluation and assessment</p>

				<p>procedures, consistent with §303.321, that will be used to measure a child's development; and</p> <p>(b) Specify the level of developmental delay in functioning or other comparable criteria that constitute a developmental delay in one or more of the developmental areas identified in §303.21(a)(1). (34 CFR §§303.203(c) &amp; 303.111)</p>
		XX		<p>5. If the State provides services under Part C to at-risk infants and toddlers through the statewide system, the application must include—</p> <p>(a) The State's definition of at-risk infants and toddlers with disabilities who are eligible in the State for services under Part C (consistent with §§303.5 and 303.21(b)); and</p> <p>(b) A description of the early intervention services provided under Part C to at-risk infants and toddlers with disabilities who meet the State's definition described in §303.204(a). (34 CFR §303.204).</p> <p><b><i>The policies and procedures listed in 5 are optional (i.e., they only apply if the State opts to serve at-risk children). Enter 'NA' in the cells to the left if the State has elected not to provide services under Part C to at-risk infants and toddlers; otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach the definition and description.</i></b></p>
—	—	—	—	<p>6. Each State application must include a description of the State's use of funds under Part C for the fiscal year or years covered by the application. (34 CFR §303.205)</p> <p><b><i>The State must complete Section III of this application.</i></b></p>
		X		<p>7. Each application must include the State's policies and procedures that require the referral for early intervention services under Part C of specific children under the age of three, as described in §303.303(b) (which includes children who are the subject of a substantiated case of abuse or neglect, or directly affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure). (34 CFR §303.206)</p>
		X		<p>8. Each application must include a description of the procedure used by the State to ensure that resources are made available under Part C for all geographic areas within the State. (34 CFR §303.207)</p>
		X		<p>9. Each application must include a description of the policies and procedures used by the State to ensure that, before adopting any new policy or procedure (including any revision to an existing policy or procedure)</p>

				<p>needed to comply with Part C of the Act and 34 CFR Part 303, the lead agency—</p> <ul style="list-style-type: none"> <li>(1) Holds public hearings on the new policy or procedure (including any revision to an existing policy or procedure);</li> <li>(2) Provides notice of the hearings held in accordance with §303.208(b)(1) at least 30 days before the hearings are conducted to enable public participation; and</li> <li>(3) Provides an opportunity for the general public, including individuals with disabilities, parents of infants and toddlers with disabilities, EIS providers, and the members of the Council, to comment for at least 30 days on the new policy or procedure (including any revision to an existing policy or procedure) needed to comply with Part C of the Act and 34 CFR Part 303.</li> </ul> <p>(34 CFR §303.208(b))</p>
			6/30/2022	<p>10. (a) <u>Application Requirements</u>: Each State must include the following in its application:</p> <ul style="list-style-type: none"> <li>(1) A description of the policies and procedures it will use to ensure a smooth transition for infants and toddlers with disabilities under the age of three and their families from receiving early intervention services under Part C to preschool or other appropriate services (for toddlers with disabilities) or exiting the program for infants and toddlers with disabilities.</li> <li>(2) A description of how the State will meet each requirement in §303.209(b) through (f).</li> <li>(3) (i) (A) If the lead agency is not the SEA, an interagency agreement between the lead agency and the SEA; or (B) If the lead agency is the SEA, an intra-agency agreement between the program within that agency that administers Part C of the Act and the program within the agency that administers section 619 of the Act</li> <li>(ii) To ensure a seamless transition between services under Part C and under Part B of the Act, an interagency agreement under paragraph (a)(3)(i)(A) of this section or an intra-agency agreement under paragraph (a)(3)(i)(B) of this section must address how the lead agency and the SEA will meet the requirements of paragraphs (b) through (f) of this section (including any policies adopted by the lead agency under §303.401(d) and (e)), §303.344(h), and 34 CFR 300.101(b), 300.124, 300.321(f) and 300.323(b).</li> </ul>

				<p>(4) Any policy the lead agency has adopted under §303.401(d) and (e).</p> <p>(b) <u>Notification to the SEA and appropriate LEA.</u> The State must ensure that—</p> <p>(1) Subject to paragraph (b)(4) of this section, not fewer than 90 days before the third birthday of the toddler with a disability if that toddler may be eligible for preschool services under Part B of the Act, the lead agency notifies the SEA and the LEA for the area in which the toddler resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or</p> <p>(2) Subject to paragraph (b)(4) of this section, if the lead agency determines that the toddler is eligible for early intervention services under Part C of the Act more than 45 but less than 90 days before that toddler’s third birthday and if that toddler may be eligible for preschool services under Part B of the Act, the lead agency, as soon as possible after determining the child’s eligibility, notifies the SEA and the LEA for the area in which the toddler with a disability resides that the toddler on his or her third birthday will reach the age of eligibility for services under Part B of the Act, as determined in accordance with State law; or</p> <p>(3) Subject to paragraph (b)(4) of this section, if a toddler is referred to the lead agency fewer than 45 days before that toddler’s third birthday and that toddler may be eligible for preschool services under Part B of the Act, the lead agency, with parental consent required under §303.414, refers the toddler to the SEA and the LEA for the area in which the toddler resides; but, the lead agency is not required to conduct an evaluation, assessment, or an initial IFSP meeting under these circumstances;</p> <p>(4) The notification required under paragraphs (b)(1), (2), and (3) of this section is consistent with any policy that the State has adopted, under §303.401(e), permitting a parent to object to disclosure of personally identifiable information.</p> <p>(c) <u>Conference to discuss services.</u> The State must ensure that—</p> <p>(1) If a toddler with a disability may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of the toddler, convenes a conference, among the lead agency, the family, and the LEA not fewer than 90 days—and, at the discretion of all of the parties, not more than 9 months—before the toddler’s third birthday to discuss</p>
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				<p>any services the toddler may receive under Part B of the Act.</p> <p>(2) If a toddler with a disability is determined to not be potentially eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family of that toddler, makes reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for the toddler to discuss appropriate services that the toddler may receive.</p> <p>(d) <u>Transition plan</u>. The State must ensure that for all toddlers with disabilities –</p> <p>(1)(i) It reviews the program options for the toddler with a disability for the period from the toddler's third birthday through the remainder of the school year; and</p> <p>(ii) Each family of a toddler with a disability who is served under Part C is included in the development of the transition plan required under this section and §303.344(h);</p> <p>(2) It establishes a transition plan in the IFSP not fewer than 90 days—and, at the discretion of all of the parties, not more than 9 months—before the toddler's third birthday; and</p> <p>(3) The transition plan in the IFSP includes, consistent with §303.344(h), as appropriate—</p> <p>(i) Steps for the toddler with a disability and his or her family to exit from the Part C program; and</p> <p>(ii) Any transition services that the IFSP Team identifies as needed by that toddler and his or her family.</p> <p>(e) <u>Transition conference and plan meeting requirements</u>. Any conference conducted under paragraph (c) of this section or meeting to develop the transition plan under paragraph (d) of this section (which conference and meeting may be combined into one meeting) must meet the requirements in §§303.342(d) and (e) and 303.343(a).</p> <p>(f) <u>Applicability of transition requirements</u>.</p> <p>(1) The transition requirements in paragraphs (b)(1) and (2), (c)(1), and (d) of this section apply to all toddlers with disabilities receiving services under this part before those toddlers turn age three, including any toddler with a disability under the age of three who is served by a State that offers services under §303.211.</p> <p>(2) In a State that offers services under §303.211, for toddlers with disabilities identified in paragraph (b)(1) of this section, the parent must be provided at the transition conference conducted under paragraph (c)(1) of this section: (i) An explanation, consistent with §303.211(b)(1)(ii), of the toddler's</p>
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				<p>options to continue to receive early intervention services under this part or preschool services under section 619 of the Act; (ii) The initial annual notice referenced in §303.211(b)(1). (3) For children with disabilities age three and older who receive services pursuant to §303.211, the State must ensure that it satisfies the separate transition requirements in §303.211(b)(6)(ii).</p> <p>(34 CFR §303.209)</p>
			6/30/2022	<p>11. Each application must contain a description of State efforts to promote collaboration among Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801, <u>et seq.</u>, as amended), early education and child care programs, and services under Part C.</p> <p>(34 CFR §303.210)</p>
			6/30/2022	<p>12. Each application must include, as required by Section 427 of the General Education Provisions Act (GEPA), a description of how the State has identified barriers and developed strategies to address the barriers and has provided a description of the steps the State is taking to ensure equitable access to, and participation in, Part C.</p> <p>(34 CFR §303.212(a))</p>
			N/A	<p>13. (a) General. (1) Subject to paragraphs (a)(2) and (b) of this section, a State may elect to include in its application for a grant under Part C a State policy, developed and implemented jointly by the lead agency and the SEA, under which a parent of a child with a disability who is eligible for preschool services under section 619 of the Act and who previously received early intervention services under Part C, may choose the continuation of early intervention services under Part C for his or her child after the child turns three until the child enters, or is eligible under State law to enter, kindergarten or elementary school.</p> <p>(2) A State that adopts the policy described in paragraph (a)(1) of this section may determine whether it applies to children with disabilities—</p> <ul style="list-style-type: none"> <li>(i) From age three until the beginning of the school year following the child’s third birthday;</li> <li>(ii) From age three until the beginning of the school year following the child’s fourth birthday; or</li> <li>(iii) From age three until the beginning of the school year following the child’s fifth birthday.</li> </ul> <p>(3) However, in no case may a State provide services under this section beyond the age at which the child actually enrolls in, or is eligible under State law to enter, kindergarten or elementary school in the State.</p> <p>(b) <u>Requirements</u>. If a State’s application for a grant under Part C includes the State policy described in</p>

				<p>paragraph (a) of this section, the system must ensure the following:</p> <ol style="list-style-type: none"> <li>(1) Parents of children with disabilities who are eligible for services under section 619 of the Act and who previously received early intervention services under Part C will be provided annual notice (the initial annual notice must be provided as set forth in §303.209(f)(2)(ii)) that contains—       <ol style="list-style-type: none"> <li>(i) A description of the rights of the parents to elect to receive services pursuant to §303.211 or under Part B of the Act; and</li> <li>(ii) An explanation of the differences between services provided pursuant to §303.211 and services provided under Part B of the Act, including—           <ol style="list-style-type: none"> <li>(A) The types of services and the locations at which the services are provided;</li> <li>(B) The procedural safeguards that apply; and</li> <li>(C) Possible costs (including the costs or fees to be charged to families as described in §§303.520 and 303.521), if any, to parents; and</li> </ol> </li> </ol> </li> <li>(2) Consistent with §303.344(d), services provided pursuant to §303.211 will include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills.</li> <li>(3) The State policy ensures that any child served pursuant to this section has the right, at any time, to receive FAPE (as that term is defined at §303.15) under Part B of the Act instead of early intervention services under Part C of the Act under §303.211.</li> <li>(4) The lead agency must continue to provide all early intervention services identified in the toddler with a disability's IFSP under §303.344 (and consented to by the parent under §303.342(e)) beyond age three until that toddler's initial eligibility determination under Part B of the Act is made under 34 CFR §300.306. This provision does not apply if the LEA has requested parental consent for the initial evaluation under §300.300(a) and the parent has not provided that consent.</li> <li>(5) The lead agency must obtain informed consent from the parent of any child with a disability for the continuation of early intervention services pursuant to this section for that child. Consent must be obtained before the child reaches three years of age, where practicable.</li> <li>(6)(i) For toddlers with disabilities under the age of three in a State that offers services under this section, the lead agency ensures that the transition</li> </ol>
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			<p>requirements in §303.209(b)(1) and (2), (c)(1) and (d) are met.</p> <p>(ii) For toddlers with disabilities age three and older in a State that offers services under this section, the lead agency ensures a smooth transition from services under this section to preschool, kindergarten or elementary school by: (A) Providing the SEA and LEA where the child resides, consistent with any State policy adopted under §303.401(e), the information listed in §303.401(d)(1) not fewer than 90 days before the child will no longer be eligible under subsection (a)(2) of this section to receive early intervention services under this section; (B) With the approval of the parents of the child, convening a transition conference, among the lead agency, the parents, and the LEA, not fewer than 90 days—and, at the discretion of all parties, not more than 9 months—before the child will no longer be eligible under subsection (a)(2) of this section to receive, or will no longer receive, early intervention services under this section, to discuss any services that the child may receive under Part B of the Act; and (C) Establishing 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 child will no longer be eligible under subsection (a)(2) of this section to receive, or no longer receives, early intervention services under this section.</p> <p>(7) In States that adopt the option to make services under Part C available to children ages three and older pursuant to §303.211, there will be a referral to the Part C system, dependent upon parental consent, of a child under the age of three who directly experiences a substantiated case of trauma due to exposure to family violence, as defined in section 320 of the Family Violence Prevention and Services Act, 42 U.S.C. 10401, et seq.</p> <p>(c) <u>Reporting requirement.</u> If a State includes in its application a State policy described in §303.211(a), the State must submit to the Secretary, in the State's report under §303.124, the number and percentage of children with disabilities who are eligible for services under section 619 of the Act but whose parents choose for their children to continue to receive early intervention services under §303.211.</p> <p>(d) <u>Available funds.</u> The State policy described in §303.211(a) must describe the funds—including an identification as Federal, State, or local funds—that will be used to ensure that the option described in §303.211(a) is available to eligible children and families who provide the consent described in §303.211(b)(5), including fees, if any, to be charged to families as described in §§303.520 and 303.521.</p> <p>(e) <u>Rules of construction.</u></p>
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				<p>(1) If a statewide system includes a State policy described in §303.211(a), a State that provides services in accordance with this section to a child with a disability who is eligible for services under section 619 of the Act will not be required to provide the child FAPE under Part B of the Act for the period of time in which the child is receiving services under §303.211.</p> <p>(2) Nothing in this section may be construed to require a provider of services under Part C to provide a child served under Part C with FAPE.</p> <p>(34 CFR §303.211)</p> <p><b><i>The policies and procedures listed in 13 are optional. Enter 'NA' in the cells to the left if the State has elected not to develop and implement a policy under 34 CFR §303.211 to make Part C services to children beyond age three; otherwise check the appropriate response under the 'Yes' column and, if checking 'N' or 'R', attach policies and procedures.</i></b></p>
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## B. Assurances and Optional Assurance

The State makes the following assurances and provisions as required by Part C of the Individuals with Disabilities Education Act. (20 U.S.C. 1431 et. seq.; 34 CFR §§303.101-126; 303.220; 303.227)

<p><b>Yes</b> <i>(Assurance is hereby provided.)</i></p>	<p><b>No</b> <i>(Assurance cannot be ensured. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i></p>	<p><b>Subpart B—Assurances</b> <i>(20 U.S.C. 1434; 1435; and 1437(b); 34 CFR §§303.101-126; 303.220; 303.227)</i></p>
	6/30/2022	<p>1. The State has adopted a policy that appropriate early intervention services, as defined in 34 CFR §303.13, are available to all infants and toddlers with disabilities in the State and their families, including—</p> <ul style="list-style-type: none"> <li>(a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State;</li> <li>(b) Infants and toddlers with disabilities who are homeless children and their families; and</li> <li>(c) Infants and toddlers with disabilities who are wards of the State.</li> </ul> <p>(34 CFR §303.101(a))</p>
X		<p>2. The State has in effect a statewide system of early intervention services that meets the requirements of section 635 of the Act, including policies and procedures that address, at a minimum, the components required in 34 CFR §§303.111 through 303.126. (34 CFR §303.101(a))</p>
X		<p>3. The State ensures that any State rules, regulations, policies, and procedures relating to 34 CFR Part 303 conform to the purposes and requirements of 34 CFR Part 303. (34 CFR §303.102)</p>
	—	<p>4. Each statewide system (system) must include, at a minimum, the components described in §§303.111 through 303.126. (34 CFR §303.110)</p>
	6/30/2022	<p>5. The State has a policy in effect that ensures that appropriate early intervention services are based on scientifically based research, to the extent practicable, and are available to all infants and toddlers with disabilities and their families, including—</p> <ul style="list-style-type: none"> <li>(a) Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State; and</li> <li>(b) Infants and toddlers with disabilities who are homeless children and their families. (34 CFR §303.112)</li> </ul>

X	—	<p>6. (a) The Statewide system ensures the performance of—</p> <ul style="list-style-type: none"> <li>(1) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State; and</li> <li>(2) A family-directed identification of the needs of the family of the infant or toddler to assist appropriately in the development of the infant or toddler.</li> </ul> <p>(b) The evaluation and family-directed identification required in paragraph (a) of this section must meet the requirements of 34 CFR §303.321.</p> <p>(34 CFR §303.113)</p>
X	—	<p>7. The Statewide system ensures that, for each infant or toddler with a disability and his or her family in the State, an IFSP, as defined in 34 CFR §303.20, is developed and implemented that meets the requirements of 34 CFR §§303.340 through 303.345 and that includes service coordination services, as defined in 34 CFR §303.34. (34 CFR §303.114)</p>
X	—	<p>8. The Statewide system includes a comprehensive child find system that meets the requirements in 34 CFR §§303.302 and 303.303. (34 CFR §303.115)</p>
X	—	<p>9. The Statewide system includes a public awareness program that—</p> <ul style="list-style-type: none"> <li>(a) Focuses on the early identification of infants and toddlers with disabilities; and</li> <li>(b) Provides information to parents of infants and toddlers through primary referral sources in accordance with 34 CFR §303.301.</li> </ul> <p>(34 CFR §303.116)</p>
X	—	<p>10. The Statewide system includes a central directory that is accessible to the general public (i.e., through the lead agency's Web site and other appropriate means) and includes accurate, up-to-date information about:</p> <ul style="list-style-type: none"> <li>(a) Public and private early intervention services, resources, and experts available in the State;</li> <li>(b) Professional and other groups (including parent support and training and information centers, such as those funded under the Act) that provide assistance to infants and toddlers with disabilities eligible under Part C of the Act and their families; and</li> <li>(c) Research and demonstration projects being conducted in the State relating to infants and toddlers with disabilities.</li> </ul> <p>(34 CFR §303.117)</p>
X	—	<p>11. The Statewide system includes 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. The State's comprehensive system of personnel development—</p>

		<p>(a) Includes—</p> <ol style="list-style-type: none"> <li>(1) Training personnel to implement innovative strategies and activities for the recruitment and retention of EIS providers;</li> <li>(2) Promoting the preparation of EIS providers who are fully and appropriately qualified to provide early intervention services under Part C; and</li> <li>(3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention services 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.</li> </ol> <p>(b) May include—</p> <ol style="list-style-type: none"> <li>(1) Training personnel to work in rural and inner-city areas;</li> <li>(2) Training personnel in the emotional and social development of young children;</li> <li>(3) Training personnel to support families in participating fully in the development and implementation of the child's IFSP; and</li> <li>(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. (34 CFR §303.118)</li> </ol>
	6/30/2022	<p>12. The Statewide system includes policies and procedures relating to the establishment and maintenance of qualification standards to ensure that personnel necessary to carry out the purposes of Part C are appropriately and adequately prepared and trained. These policies and procedures provide for the establishment and maintenance of qualification standards that are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the profession, discipline, or area in which personnel are providing early intervention services. Nothing in Part C of the Act may be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under Part C of the Act to infants and toddlers with disabilities. (34 CFR §303.119(a)–(c))</p>
X	—	<p>13. The Statewide system includes a single line of responsibility in a lead agency designated or established by the Governor that is responsible for the following—</p> <p>(a) (1) The general administration and supervision of programs and activities administered by agencies, institutions, organizations, and EIS providers receiving assistance under Part C of the Act; and</p> <p>(2) The monitoring of programs and activities used by the State to carry out Part C of the Act (whether or not the programs or activities are administered by agencies, institutions,</p>



		<p>organizations, and EIS providers that are receiving assistance under Part C of the Act), to ensure that the State complies with Part C of the Act, including—</p> <ul style="list-style-type: none"> <li>(i) Monitoring agencies, institutions, organizations, and EIS providers used by the State to carry out Part C of the Act;</li> <li>(ii) Enforcing any obligations imposed on those agencies, institutions, organizations, and EIS providers under Part C of the Act and 34 CFR Part 303;</li> <li>(iii) Providing technical assistance, if necessary, to those agencies, institutions, organizations and EIS providers;</li> <li>(iv) Correcting any noncompliance identified through monitoring as soon as possible and in no case later than one year after the lead agency’s identification of the noncompliance; and</li> <li>(v) Conducting the activities in paragraphs (a)(2)(i) through (a)(2)(iv) of this section, consistent with 34 CFR §§303.700 through 303.707, and any other activities required by the State under those sections.</li> </ul> <p>(b) The identification and coordination of all available resources for early intervention services within the State, including those from Federal, State, local, and private sources, consistent with subpart F of 34 CFR Part 303.</p> <p>(c) The assignment of financial responsibility in accordance with subpart F of 34 CFR Part 303.</p> <p>(d) The development of procedures in accordance with subpart F of 34 CFR Part 303 to ensure that early intervention services are provided to infants and toddlers with disabilities and their families under Part C of the Act in a timely manner, pending the resolution of any disputes among public agencies or EIS providers.</p> <p>(e) The resolution of intra- and interagency disputes in accordance with subpart F of 34 CFR Part 303.</p> <p>(f) The entry into formal interagency agreements or other written methods of establishing financial responsibility, consistent with 34 CFR §303.511, that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination as set forth in subpart F of 34 CFR Part 303.</p> <p>(34 CFR §303.120)</p>
	6/30/2022	<p>14. The Statewide system includes a policy pertaining to the contracting or making of other arrangements with public or private individuals or agency service providers to provide early intervention services in the State, consistent with the provisions of Part C of the Act and 34 CFR Part 303, including the contents of the application, and the conditions of the contract or other arrangements. The policy —</p> <ul style="list-style-type: none"> <li>(a) Includes a requirement that all early intervention services must meet State standards and be consistent with the provisions of Part C; and</li> </ul>

		(b) Is consistent with the Education Department General Administrative Regulations in 34 CFR Part 80. (34 CFR §303.121)
	6/30/2022	15. The Statewide system includes procedures for securing the timely reimbursement of funds used under Part C of the Act, in accordance with subpart F of 34 CFR Part 303. (34 CFR §303.122)
	6/30/2022	16. The Statewide system includes procedural safeguards that meet the requirements of subpart E of 34 CFR Part 303. (34 CFR §303.123)
X	—	17. The Statewide system includes a system for compiling and reporting timely and accurate data that meets the requirements of 34 CFR §§303.700 through 303.702 and 303.720 through 303.724 and the following requirements. The data system includes a description of the process that the State uses, or will use, to compile data on infants or toddlers with disabilities receiving early intervention services under Part C, including a description of the State's sampling methods, if sampling is used, for reporting the data required by the Secretary under sections 616 and 618 of the IDEA and 34 CFR §§303.700 through 303.707 and 303.720 through 303.724. (34 CFR §303.124)
X	—	18. The Statewide system includes a State Interagency Coordinating Council (Council) that meets the requirements of subpart G of 34 CFR Part 303. (34 CFR §303.125)
X		19. The Statewide system includes policies and procedures to ensure, consistent with 34 CFR §§303.13(a)(8) (early intervention services), 303.26 (natural environments), and 303.344(d)(1)(ii) (content of an IFSP), that early intervention services for infants and toddlers with disabilities are provided—  (a) To the maximum extent appropriate, in natural environments; and (b) In settings other than the natural environment that are most appropriate, as determined by the parent and the IFSP Team, only when early intervention services cannot be achieved satisfactorily in a natural environment. (34 CFR §303.126)
X		20. The Statewide system ensures that Federal funds made available to the State under section 643 of the Act will be expended in accordance with the provisions of 34 CFR Part 303, including §§303.500 and 303.501. (34 CFR §303.221)
X		21. The Statewide system will comply with the requirements in §§303.510 and 303.511 in subpart F of this part. (34 CFR §303.222)
X	—	22. The Statewide system ensures that—  (a) The control of funds provided under 34 CFR Part 303, and title to property acquired with those funds, will be in a public

		<p>agency for the uses and purposes provided in 34 CFR Part 303; and</p> <p>(b) A public agency will administer the funds and property.</p> <p>(34 CFR §303.223)</p>
X	—	<p>23. The Statewide system ensures that it will—</p> <p>(a) Make reports in the form and containing the information that the Secretary may require; and</p> <p>(b) Keep records and afford access to those records as the Secretary may find necessary to ensure compliance with the requirements of 34 CFR Part 303, the correctness and verification of reports, and the proper disbursement of funds provided under 34 CFR Part 303.</p> <p>(34 CFR §303.224)</p>
X	—	<p>24. The Statewide system ensures that –</p> <p>(a) Federal funds made available under section 643 of the Act to the State –</p> <p>(1) Will not be commingled with State funds; and</p> <p>(2) Will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.</p> <p>(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—</p> <p>(1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and</p> <p>(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.</p> <p>(c) Requirement regarding indirect costs.</p> <p>(1) Except as provided in paragraph (c)(2) of this section, a lead agency under this part may not charge indirect costs to its Part C grant.</p> <p>(2) If approved by the lead agency’s cognizant Federal agency or by the Secretary, the lead agency must charge indirect costs through either—</p> <p>(i) A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or</p> <p>(ii) A cost allocation plan that meets the non-supplanting requirements in paragraph (b) of this section and 34 CFR Part 76 of EDGAR.</p> <p><u>(3) In charging indirect costs under paragraph (c)(2)(i) and (c)(2)(ii) of this section, the lead agency may not charge rent, occupancy, or space maintenance costs directly to</u></p>

		<p><u>the Part C grant, unless those costs are specifically approved in advance by the Secretary.</u></p> <p>(34 CFR §303.225)</p>
X	—	<p>25. The Statewide system ensures that fiscal control and fund accounting procedures will be adopted as necessary to ensure proper disbursement of, and accounting for, Federal funds paid under 34 CFR Part 303.</p> <p>(34 CFR §303.226)</p>
	6/30/2022	<p>26. The State ensures that policies and practices have been adopted to ensure that—</p> <p>(a) Traditionally underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, are meaningfully involved in the planning and implementation of all the requirements of Part C; and</p> <p>(b) These families have access to culturally competent services within their local geographical areas.</p> <p>(34 CFR §303.227)</p>
—	—	Assurance Regarding Optional Policy
	6/30/2022	<p><i>Enter 'NA' in the cell to the left if this assurance is not applicable to your State.</i></p> <p>27. A State may adopt and has adopted a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in paragraphs (a) and (b) of this section. (34 CFR §303.119(d))</p>

**C. Certifications**

The State Lead Agency is providing the following certifications:

Yes	Certification
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i> the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	<p>2. The State certifies that it has met the certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.</p>
X	<p>3. The State certifies that the arrangements to establish financial responsibility for the provision of Part C services among appropriate public agencies under §303.511 and the lead agency's contracts with EIS providers regarding financial responsibility for the provision of Part C services meet the requirements in §§303.500 through 303.521 and are current as of the date of submission of the certification. (34 CFR §303.202)</p>



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF FINANCE AND OPERATIONS  
OFFICE OF ACQUISITION AND GRANTS ADMINISTRATION

June 29, 2021

Honorable Lemanu P.S. Mauga  
Governor of American Samoa  
Office of the Governor  
A.P. Lutali Executive Office Building—3<sup>rd</sup> Floor  
Pago Pago, American Samoa 96799

Dear Governor Mauga:

The purpose of this letter is to convey to you the enclosed specific conditions that the U.S. Department of Education (Department) is imposing on all grants awarded to the American Samoa Government (ASG) agencies, including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH) for Federal Fiscal Year (FFY) 2021. The Department commends ASG for improvements made over the past year to strengthen the administration of Federal funds, and the Department will continue to partner with ASG to determine the type of needed actions and support that would be most helpful moving forward.

These specific conditions are largely maintained from FY 2020. In addition to applying to all grants awarded to ASG for FFY 2021, the conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2022: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973, as amended (Rehabilitation Act)), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance Program (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs). The specific conditions will apply to all grants awarded by the Department to the American Samoa Government on or after the date of these specific conditions. These specific conditions are also applicable to grant funds previously awarded by the Department to the American Samoa Government that are still available for obligation or liquidation as of the date of these specific conditions, including any funds awarded by the Department to the American Samoa Government under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSA), and the American Rescue Plan (ARP).

Successful implementation and maintenance of a comprehensive and reliable financial and accounting system is a key element in accomplishing effective fiscal management and administration of Department grants. In an effort to address systemic internal control deficiencies and limited capabilities of its core financial and accounting system, Integrated Financial and Accounting System (IFAS), at the beginning of fiscal year (FY) 2016, ASG

initiated a two-year project - OneSolution upgrade for IFAS. Since the implementation of ASG's OneSolution upgrade, the Department has noted improvements in ASG's single audits. Specifically, ASG received an unqualified opinion with respect to its Federal education awards and its financial statements in its most recent 2019 single audit. In the 2019 audit, the auditors noted that ASG closed two long-standing financial statement findings in equipment and real property, and management estimates and significant accounts. However, two long-standing findings in the areas of taxes and general ledger reconciliation and reporting have continued since fiscal year 2015. Additionally, ASG has reported, in its semi-annual report to the Department, the implementation of internal controls over all areas specified in its High-Risk Corrective Action Plan (HRCAP). Although ASG has made progress in addressing its systemic internal control deficiencies over the past several years, the Department has determined that ASG has yet to demonstrate sufficient progress in implementing the corrective measures outlined in the HRCAP. Specifically, although there have been improvements as a result of implementation of OneSolution, ASG continues to demonstrate deficiencies in internal controls in the area of timely reconciliations of various financial and accounting data to source documents to generate reliable financial reports for management review. Therefore, ASG has not yet demonstrated full implementation of comprehensive financial and accounting systems that result in fiscal accountability for, and effective administration of, Federal funds. Accordingly, these specific conditions remain necessary, and ASG's status as a "high-risk" grantee remains in effect under the Department's authority in 2 CFR §§ 200.207 and 3474.10.

Once the Department confirms that such changes are implemented successfully, ASG will be able to begin discussions with the Department about possible modifications to the current Department-wide specific conditions to accommodate the changes.

The Department is committed to assisting ASG in its delivery of Federal education and other services to the residents of the territory through its continued improvement in the administration and management of the Department's grant funds. If you have any questions or require further assistance, please contact Patrick Smith at 202-453-6456 or via email at [patrick.smith@ed.gov](mailto:patrick.smith@ed.gov).

Sincerely,

Phillip Juengst  
Deputy Assistant Secretary  
Office of Acquisition and Grants Administration

cc: Salo Ale, Lieutenant Governor  
Jerome Ierome, High-Risk Coordinator

Enclosure

American Samoa Government – Specific Conditions  
Federal Fiscal Years (FFY) 2021 and 2022<sup>1</sup>

PREAMBLE: These specific conditions are imposed on all grants issued by the U.S. Department of Education (Department) to all recipient agencies of the Government of American Samoa (ASG) (including, but not limited to, the American Samoa Department of Education (ASDOE) and the American Samoa Department of Health (ASDOH)) on or after the date of these specific conditions. These specific conditions also apply to all grants under the following programs awarded to any ASG agencies for FFY 2022: Vocational Rehabilitation (Title I of the Rehabilitation Act of 1973, as amended (Rehabilitation Act)), Supported Employment (Title VI of the Rehabilitation Act), Client Assistance Program (section 112 of the Rehabilitation Act), Protection and Advocacy of Individual Rights (section 509 of the Rehabilitation Act), and Independent Living Services for Older Individuals Who Are Blind (Title VII, Chapter 2 of the Rehabilitation Act) (collectively, Rehabilitation Act programs).

Additionally, the specific conditions apply to grant funds previously awarded by the Department to ASG (including, but not limited to, ASDOE and ASDOH) that are still available for obligation or liquidation on the date of these specific conditions, including any funds awarded by the Department to ASG under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSA), and the American Rescue Plan (ARP). These specific conditions are applied to these program grants and funds in accordance with regulations governing specific conditions and “high-risk” grantees in 2 CFR §§ 200.207 and 3474.10 in the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). The specific conditions are imposed to help ensure that ASG’s awards are expended in accordance with applicable legal requirements and with appropriate fiscal accountability measures, management practices, and controls.

## I. EXPLANATION OF HIGH-RISK STATUS

Under the authority of the Uniform Guidance at 2 CFR §§ 200.207 and 3474.10, the Department has determined that ASG continues to be a “high-risk” grantee for purposes of these grant awards because of continuing problems in ASG’s fiscal and program accountability and related areas. Our conclusion is based on the following:

The Department continues to be concerned with the internal control deficiencies, and material weaknesses in the operation of the internal control structure related to general accounting and grants administration reported in ASG’s fiscal year (FY) 2018 single audit and prior year single audits beginning with FY 2009. Due to the seriousness of the deficiencies, the auditors issued

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<sup>1</sup> These specific conditions are considered FFY 2022 specific conditions only for purposes of the following programs: Vocational Rehabilitation, Supported Employment, Client Assistance Program, Protection and Advocacy of Individual Rights, and Independent Living Services for Older Individuals Who Are Blind. For all other programs to which they apply, they are considered FFY 2021 specific conditions.



either qualified or disclaimed opinions on both ASG's audited financial statements and the report on Federal program compliance for one or more of the Department's major grants for the same period discussed above, FY 2009 through FY 2018. However, the Department is encouraged by 1) ASG's FY 2019 audit report that received an unqualified opinion over financial statements and Federal Department of Education major programs; and 2) the completion of corrective actions in the areas of: controls over available grant balances, procurement policies and procedures, fiscal policies for services to eligible children, the IFAS system upgrade, and implementation of the SIS system in its High-Risk Correction Action Plan (HRCAP). The Department looks forward to working with ASG as it continues its progress in completing the remaining corrective actions in its HRCAP, including physical inventory, fixed assets, and allowable costs training and the approval of policies and procedures.

While recognizing the progress that ASG has made, because there are remaining significant deficiencies that ASG must address related to the management of Department funds, the Department is again imposing these specific conditions for FFY 2021, and for FFY 2022 for Rehabilitation Act programs, as set forth below.

## II. SPECIFIC CONDITIONS

### A. High-Risk Corrective Action Plan

1. In accordance with Section II.C of the FFY 2007 special conditions and Section II.B of the FFY 2008 special conditions, ASG developed and obtained Department approval (on October 7, 2008) of a comprehensive HRCAP that outlines measures that ASG must implement to address and resolve the problems that led to its designation as a high-risk grantee and that will assist ASG and the Department in tracking ASG's progress in addressing and resolving these problems. ASG must continue its work toward implementing all corrective actions in the HRCAP. Particularly, finalization and implementation of policies and procedures over: timely reconciliation of general ledger balances and other required financial reports, and grant activities and expenditures. Additionally, ASG must continue receiving unqualified audit opinions and resolving its audit findings timely especially repeat findings. In the event that the Department or ASG determines that additional measures are required in the HRCAP to address the fiscal administrative deficiencies described above in Section I, ASG must amend the HRCAP to include such measures, obtaining the Department's approval before proceeding with the additional measures.

ASG is required to continue to provide a semiannual report to the Department on its progress in implementing measures required pursuant to the HRCAP. The semiannual reports must include the current status of ASG's implementation of the various measures, including a description of activities and progress for each task during the reporting period, documentation of measures of performance and results, and other data or documentation as specified within the action steps for each task, and, if necessary, any changes in the targeted completion dates and/or person(s) responsible for ensuring that a particular corrective action is implemented. In addition, the semiannual report must include a description of any upgrades of its core financial and accounting system, IFAS, and provide specific examples of the manner in which expanded IFAS

functionalities and capabilities are assisting ASG in implementing measures required under the HRCAP and in addressing the fiscal and management deficiencies identified in Section I above. ASG must include in each semi-annual report all edits and updates from each of its departments into one consolidated HRCAP report.

2. ASG must continue to submit the HRCAP reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual reports shall be submitted to the Department by April 30, 2022 for the period covering October 1, 2021 to March 31, 2022 and by October 31, 2022 for the period covering April 1, 2022 to September 30, 2022. ASG must ensure that its HRCAP report submissions are timely. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more additional actions or imposing additional remedial requirements, including the following, for any applicable program(s): the reinstatement of quarterly reporting; the imposition of further conditions; the recovery of misspent funds; or the requirement for ASG to procure the services of a third-party fiduciary agent to provide fiscal management services.
3. Until such time as all of the corrective actions in the HRCAP referenced in Section I above have been implemented and deficiencies and material weaknesses have been addressed, semiannual HRCAP reports will continue to be required as stipulated above.

B. Payroll Attestation Corrective Action Plan

1. Because of ASG's high-risk status and demonstrated risk to Federal program funds, as noted in a number of its single audits, and in conjunction with the Department's serious concerns regarding payroll inaccuracies and reporting affecting Department grant funds, the FFY 2007 specific conditions required ASG to undergo an Attestation administered by an independent public accountant, covering all ASG employees paid with Department grant funds. R.C. Holsinger Associates (RCHA), P.C. Certified Public Accountants, conducted the Attestation in February/March 2008 and issued a final report to the Department that identified significant problems in the manner in which ASG accounts for Federal funds used for payroll costs and indicated that ASG is not in compliance with Federal requirements for using Federal funds for payroll costs.
2. Because of the significant problems identified in the attestation and their impact on the expenditure of Department grant funds for payroll cost, ASG was required to develop a payroll corrective action plan (PCAP) to address all deficiencies cited in RCHA's Attestation report. The Department approved the PCAP on March 16, 2009. The PCAP was used by ASG (and monitored by the Department) to develop and implement internal controls, policies, and procedures to eliminate the significant deficiencies identified by the Attestation and to bring ASG into compliance with Federal requirements for using Department grant funds for payroll costs. Because ASG demonstrated to the Department that it had addressed the internal control deficiencies and material weaknesses outlined in the PCAP, ASG was no longer required as of the FFY 2011 special conditions to report quarterly to the Department on its efforts and initiatives to implement corrective actions and controls in accordance with the PCAP.

However, ASG must continue to submit semiannually a PCAP internal control maintenance report that outlines its efforts to monitor its payroll operations and internal controls to ensure that they are operating as intended. ASG's PCAP internal control maintenance reports must include the following information, at a minimum, in narrative form:

- The current status of ASG's monitoring efforts of its payroll and human resources operation, including a description of activities it has engaged in during the semiannual period;
  - any internal control weaknesses identified in its policies and procedures related to the operation of its payroll and human resources operations;
  - a narrative explanation of what caused the internal control weaknesses/failure;
  - a description of the action(s) taken to correct the internal control deficiencies identified during its monitoring operations; and
  - copies of all revised policies and procedures and any other documentation (e.g., policies, forms, evidence of training, etc.) that support ASG's monitoring efforts.
3. ASG must submit the PCAP internal control maintenance reports to the Department no later than thirty days after the end of each semiannual period. Therefore, semiannual PCAP internal control maintenance reports shall be submitted as follows:
- For the semiannual reporting period October 1st to March 31st – due April 30, 2022
  - For the semiannual reporting period April 1st to September 30th – due October 31, 2022
4. ASG must ensure that its PCAP internal control maintenance reports are submitted timely. If a report is not timely or is not considered acceptable by the Department, it may result in the Department taking one or more additional actions or imposing additional remedial requirements, including the following, for any applicable program(s): the imposition of further conditions; the recovery of misspent funds; or the requirement for ASG to procure the services of a third-party fiduciary agent to provide fiscal management services.

C. Single Audits

ASG shall continue to ensure that single audits are conducted on an annual basis in a timely manner and that reports, along with data collection forms, are submitted to the Federal Audit Clearinghouse within nine months after the end of each fiscal year. As such, ASG must complete its FY 2020 single audit timely and submit it to the Federal Audit Clearinghouse by June 30, 2021, in accordance with the Single Audit Act of 1984, as amended. The Department will continue to rely on ASG's single audits, along with monitoring conducted by the Department, to perform oversight of ASG's administration of Department grants. If, for any reason, ASG expects an audit or report to be delayed, it shall notify the Department of the reason and extent of the delay as soon as possible. Based on the information provided, the Department may take one or more additional actions or

impose additional remedial requirements, including, but not limited to, the imposition of further conditions, the recovery of misspent funds, or the implementation of a contract with a third-party fiduciary agent to provide services.

D. Program-Specific Conditions

Program-specific conditions may be imposed on FFY 2021 grant awards (or FFY 2022 grant awards for Rehabilitation Act programs) made under one or more Department programs, in addition to the specific conditions that are contained in this document. Each such program-specific condition will be contained in a separate attachment to the grant award notification document provided by the Department to ASG.

E. Prompt Access

ASG shall promptly provide the Department with access to any requested staff, locations, records, and information associated with Federal and matching funds related to programs administered by the Department.

F. Failure to Comply with Conditions or Other Requirements

If the Department determines that ASG has not made substantial progress in meeting the objectives of the programs or has not met program requirements or the specific conditions contained in Sections II.A-E above, then the Department may consider not continuing the grant(s), taking further enforcement action steps, or applying additional conditions such as, but not limited to, the following:

1. ASG would receive no further funds under the grant award(s) or only on a reimbursement basis;
2. ASG would be required to prepare and submit a separate corrective action plan for each program in which problems have occurred or in which there is insufficient progress; and
3. ASG would contract with a third-party fiduciary agent, which must be approved by the Department, to provide services or financial management under the grant award(s). The third-party fiduciary agent would, at a minimum, assist in preparing the vouchers to be submitted to the Department for reimbursement, and would verify their accuracy and legitimacy as an appropriate expenditure under the grant award(s).

These terms and conditions do not preclude the Department from taking any otherwise authorized enforcement or other actions at any time.

### III. OTHER TERMS

#### A. Submission of Reports

All reports and plans (including with respect to the HRCAP and PCAP) that are required to be submitted by ASG to the Department under these specific conditions shall be submitted in electronic file format to Patrick Smith, Risk Management Specialist at [patrick.smith@ed.gov](mailto:patrick.smith@ed.gov).

#### B. Reconsideration and Modifications

At any time, ASG may request reconsideration of the above specific conditions by contacting the Department and stating reasons why ASG believes particular conditions are no longer needed. Additionally, the Department may impose additional specific conditions or modify these specific conditions as appropriate. The Department will remove the specific conditions at such time as ASG meets, to the Department's satisfaction, the conditions contained herein.

Dated: June 29, 2021