

## **Enclosure B**

### **New Mexico IDEA Part C FFY 2009 Special Conditions**

#### **1. Basis for Requiring Special Conditions**

Pursuant to the Department's authority in sections 616(g) and 642 of the Individuals with Disabilities Education Act (IDEA) and 34 CFR §80.12, the Office of Special Education Programs (OSEP) is designating New Mexico as a "high risk" grantee and imposing Special Conditions on New Mexico's Federal Fiscal Year (FFY) 2009 grant award under Part C of the IDEA (Part C) to ensure that:

- 1) All infants and toddlers referred to Part C have evaluations and assessments and initial Individualized Family Service Plan (IFSP) meetings conducted within 45 days of a child's referral to the Part C early intervention system as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a) (45-day Timeline), and
- 2) All infants and toddlers with disabilities with IFSPs in New Mexico receive the early intervention services on their IFSPs in a timely manner, as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1) (timely service provision).

Special Conditions imposed on New Mexico's FFY 2008 grant award required the New Mexico Department of Health (NMDOH) to submit two reports, the first by November 1, 2008 and a final Progress Report with its FFY 2007 APR, due February 2, 2009, with data demonstrating compliance with Part C's 45-day timeline and timely service provision requirements. In its Progress Reports, NMDOH provided updated FFY 2008 quarterly data showing continued noncompliance with the 45-day timeline requirements by five early intervention service (EIS) programs,<sup>1</sup> ranging from 62.5% to 95.7% compliance for the second quarter of FFY 2008 (October 1, 2008 through December 31, 2008), and continued noncompliance with the timely service provision requirements by eight EIS programs, ranging from 60% to 90% compliance for the same time period.<sup>2</sup>

For these reasons, and to ensure that the 45-day timeline and timely service provision requirements are met in New Mexico, the Department is imposing these Special Conditions on New Mexico's FFY 2009 Part C grant award.

#### **2. Nature of the Special Conditions**

##### **A. 45-day Timeline**

NMDOH must provide data to OSEP by May 14, 2010, demonstrating compliance by the remaining five EIS programs with the 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a). NMDOH must submit two progress reports with the following data for each of the five EIS programs listed in footnote 1 of this document: (1) the number and percentage of infants and toddlers with disabilities for whom an evaluation, assessment, and initial IFSP meeting were conducted within Part C's 45-day timeline; (2) the number of infants and toddlers with disabilities who did not receive an evaluation, assessment and initial IFSP meeting within the 45-day timeline

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<sup>1</sup> Alta Mira Specialized Family Services, Children's Medical Services, DSI, Life Quest, Inc., and RCI, Inc.

<sup>2</sup> Disabilities Services, Inc., La Vida Felicidad, Inc., Laguna Pueblo Division of EC, MECA, Mosaic, Pecos Valley Cooperative, RCI, and Tresco, Inc.

because the delay was attributable to: (a) documented exceptional family circumstances; or (b) other reasons (in which case, NMDOH must provide an explanation of the reasons for each delay); and (3) the specific actions that NMDOH has taken with each of the EIS programs to address the reasons for delays.

- i. The first Progress Report, due by February 1, 2010, with NMDOH's FFY 2008 APR, must provide data for elements (1) through (3) above for the period from July 1, 2009, through December 31, 2009, for each of the five EIS program in footnote 1.
- ii. The second and final Progress Report, due by May 14, 2010, must provide updated data for elements (1) through (3) above for the period from January 1, 2010, through April 30, 2010, for each of the five EIS programs in footnote 1.

### **B. Service Provision**

NMDOH must provide data to OSEP by May 14, 2010, demonstrating compliance by the remaining eight EIS programs with the timely service provision requirements in 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1). NMDOH must submit two progress reports with the following data for each of the eight EIS programs listed in footnote 2 of this document: (1) the number and percentage of infants and toddlers with disabilities for whom the Part C services identified on the child's IFSP were timely initiated; (2) the number of eligible children with IFSPs whose services were not timely initiated because the delay was attributable to: (a) documented exceptional family circumstances; or (b) other reasons (in which case, NMDOH must provide an explanation of the reasons for each delay); and (3) the specific actions that NMDOH has taken with each of the EIS programs to address the reasons for delays.

- i. The first Progress Report, due by February 1, 2010, with NMDOH's FFY 2008 APR, must provide data for elements (1) through (3) above for the period from July 1, 2009, through December 31, 2009, for each of the eight EIS programs listed in footnote 2.
- ii. The second and final Progress Report, due by May 14, 2010, must provide updated data for elements (1) through (3) above for the period from January 1, 2010, through April 30, 2010, for each of the eight EIS programs listed in footnote 2.

### **3. Evidence Necessary to Remove Conditions**

The Department will remove the Special Conditions if, at any time prior to the expiration of the grant year, New Mexico provides documentation, satisfactory to the Department, that it has met the conditions set forth above.

### **4. Method of Requesting Reconsideration**

NMDOH may write to the Office of Special Education Programs Acting Director, Patricia Guard, at the address below, if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to these Special Conditions sought by the State and the reasons for those requested changes.

**5. Submission of Reports**

NMDOH must submit all reports to the Department under these Special Conditions to:

U.S. Department of Education  
Office of Special Education and Rehabilitative Services  
400 Maryland Ave., S.W.  
Washington, D.C. 20202-2550  
Attn: Virginia Sheppard  
Or by email to: [virginia.sheppard@ed.gov](mailto:virginia.sheppard@ed.gov)