

Enclosure B

South Carolina FFY 2009 Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to the Individuals with Disabilities Education Act (IDEA) sections 616(g) and 642 and 34 CFR §80.12, the Office of Special Education Programs (OSEP) is designating South Carolina as a “high risk” grantee and imposing Special Conditions on South Carolina’s Federal Fiscal Year (FFY) 2009 grant award under Part C of the IDEA. These Special Conditions are imposed to ensure that the South Carolina Department of Health and Environmental Control (DHEC), the State’s lead agency under Part C, has a general supervision system that can identify and correct noncompliance with Part C requirements, as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501(b) (“timely correction” requirements). OSEP also imposed Special Conditions regarding the timely correction requirements on South Carolina’s FFY 2008 Part C grant award because the State had failed to report data on the timely correction requirements under Indicator 9 of its FFYs 2004, 2005, and 2006 Annual Performance Reports (APRs).

In its FFY 2007 APR, submitted on February 2, 2009, the State reported on the identification and correction of findings of noncompliance for FFY 2004, 2005, and 2006. South Carolina’s final progress report, submitted on May 20, 2009, under its FFY 2008 Part C grant award Special Conditions, provided data demonstrating continued noncompliance with Part C’s timely correction requirements. Specifically, DHEC reported that two of 18 FFY 2004 and five of 18 FFY 2005 findings of noncompliance had been corrected and children served during those years had aged out of the program, making further child-specific correction not feasible. The State further reported that four of its five FFY 2006 findings of noncompliance have been corrected. In its May 2009 submission, DHEC provided updated FFY 2008 APR Indicator 9 data indicating that it had timely corrected five (or 45%) of 11 FFY 2007 findings of noncompliance.

For these reasons, and to ensure that South Carolina continues to meet Part C’s timely correction requirements, OSEP is imposing these Special Conditions on South Carolina’s FFY 2009 IDEA Part C grant award to ensure the timely correction of noncompliance.

2. Nature of the Special Conditions

Pursuant to the Special Conditions, DHEC must provide data to OSEP by May 14, 2010, demonstrating compliance with the requirement that the State timely corrects noncompliance as soon as possible but in no case later than one year from identification, as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501(b). To document its progress in ensuring the timely correction of noncompliance, the State must submit two Progress Reports, the first with its FFY 2008 APR, due by February 1, 2010, and a final Progress Report, due by May 14, 2010, with the following data:

- A. In the first Progress Report, due by February 1, 2010 with its FFY 2008 APR, DHEC must report: (1)(a) the number of findings of noncompliance identified by DHEC from July 1, 2008 through December 31, 2008; (b) the number of those

- findings timely corrected within one year from identification; (c) the number of findings corrected beyond the one-year timeline; and (d) for each FFY 2008 finding that remains uncorrected, the actions that DHEC has taken to ensure correction of the noncompliance; (2)(a) the number of findings of noncompliance identified by DHEC from January 1, 2009 to December 31, 2009; and (b) although the one- year timeline for correction of these findings will not yet have run, the number of those findings corrected by the time of the February 1, 2010 Progress Report; and (3) in its FFY 2008 APR, due February 1, 2010, the timely correction data required by Indicator 9 (i.e., FFY 2007 findings timely corrected in FFY 2008); and
- B. If any FFY 2007 or FFY 2008 findings remain uncorrected at the time of the State's February 1, 2010 Progress Report, the State must report in the final Progress Report, due by May 14, 2010: (1) the number of those findings of noncompliance that remained uncorrected at the time of the State's February 1, 2010 Progress Report; (2) the number of those findings corrected subsequent to the February 1, 2010 Progress Report; and (3) any enforcement actions DHEC has taken to ensure correction of the noncompliance within one year from identification and the status of such enforcement actions.

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, South Carolina provides documentation, satisfactory to the Department, that it has met the requirements and conditions set forth above.

4. Method of Requesting Reconsideration

South Carolina may write to Patricia J. Guard, Acting Director, Office of Special Education Programs, 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 the Special Conditions sought by the State and the reasons for those requested changes.

5. Submission of Reports

All reports from South Carolina to the Department under these Special Conditions must be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Rhonda Spence
400 Maryland Ave., S.W.
Washington, D.C. 20202-2550

Or by email to: Rhonda.Spence@ed.gov