

Enclosure B

South Carolina IDEA Part C FFY 2010 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) 2010 grant award under Part C of the IDEA. These Special Conditions are imposed to ensure that South Carolina First Steps (First Steps), the State’s lead agency under IDEA Part C, timely corrects findings of noncompliance with IDEA Part C requirements as soon as possible, but not later than one year from identification, as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501(b) and verifies timely correction of noncompliance, consistent with OSEP Memorandum 09-02 (OSEP Memo 09-02), dated October, 17, 2008 (“timely correction” requirements). The State’s FFY 2009 IDEA Part C grant also contained Special Conditions to ensure timely identification and correction. The State has ensured compliance with the timely identification requirements, but has not yet met the timely correction requirements.

First Steps was designated as the State lead agency during FFY 2009, effective January 1, 2010. In the State’s FFY 2008 Annual Performance Report (APR) submitted on February 1, 2010, the State provided data under APR Indicator 9 reflecting noncompliance with the timely correction requirements in IDEA section 635(a)(10)(A) and 34 CFR §303.501(b). Specifically, the State reported that ten of 16 (or 63%) of findings of noncompliance identified by the State in FFY 2007 were corrected in a timely manner. OSEP’s June 3, 2010 letter responding to the State’s FFY 2008 APR noted that the State had not verified, as required by OSEP Memo 09-02, that each EIS program with noncompliance identified in FFY 2007 either: (1) is correctly implementing the specific regulatory requirements; and/or (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program.

OSEP’s June 3, 2010 letter requires that the State, “in reporting on correction of noncompliance in the FFY 2009 APR [due February 1, 2011], the State must report that it verified that each early intervention service (EIS) program with noncompliance identified in FFY 2008: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.”

In its May 14, and June 30, 2010 progress reports under the FFY 2009 Special Conditions, the State provided updated correction data for FFYs 2006 through 2009 in three areas indicating 100% correction for areas two and three and indicating data in area one were not as reliable: (1) timely service provision requirements under APR Indicator 1; (2) 45-day timeline requirements under APR Indicator 7; and (3) timely transition conference requirements under APR Indicator 8C. The State reported it had complete data reflecting child-specific correction for: (1) 45-day timeline requirements under APR Indicator 7; and (2) timely transition conference requirements under APR Indicator 8C. However, the State reported in these progress reports that its data on

timely service provision under APR Indicator 1 were “Incomplete” and that “the status of compliance could not be determined.” (The State’s APR data for Indicator 1 were 74.50% for FFY 2008 and 76.02% for FFY 2007.)

The State has not reported child-specific correction under Indicator 1 for FFY 2008. In addition, the State has not reported, for Indicators 1, 7 and 8C, that the State verified that each EIS program with noncompliance identified in FFY 2008 is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system.

For these reasons, and to ensure that South Carolina will meet IDEA Part C’s timely correction requirements, OSEP is imposing these Special Conditions on South Carolina’s FFY 2010 IDEA Part C grant award.

2. Nature of the Special Conditions

Pursuant to these Special Conditions, First Steps must provide data to OSEP 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) and verifies that timely correction, consistent with OSEP Memo 09-02. The data must be submitted as follows:

- a. In the first Progress Report, due by February 1, 2011 with its FFY 2009 APR, First Steps must provide, in addition to the information required by OSEP’s June 3, 2010 letter and the FFY 2009 APR, written confirmation that:
 1. Its FFY 2009 APR data for Indicator 1 regarding timely service provision are valid and reliable;
 2. Each EIS program with noncompliance identified in FFY 2008 has corrected each individual case of noncompliance under APR Indicator 1, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02; and
 3. For Indicators 1, 7 and 8C, that the State verified that each EIS program with noncompliance identified in FFY 2008 is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system.
- b. In the final progress report, due May 2, 2011, First Steps must provide updated correction data for timely correction in FFY 2010 (as of April 15, 2011) for all outstanding findings made regarding the timely provision of services in Indicator 1.

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 Dr. Melody Musgrove, 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
And by email to: Rhonda.Spence@ed.gov