

Enclosure C

American Samoa IDEA Part C FFY 2011 Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to Sections 616(g) and 642 of Part C the Individuals with Disabilities Education Act (IDEA Part C) and 34 CFR §80.12, the Office of Special Education Programs (OSEP) is designating American Samoa as a “high risk” grantee and imposing Special Conditions on American Samoa’s FFY 2011 grant award under IDEA Part C to ensure:

- A. Initial evaluations and assessments are conducted within 45 days of a child’s referral, as required by 34 CFR §§303.321(e), 303.322(e) and 303.342(a) (45-day timeline); and
- B. The timely provision of early intervention services to infants and toddlers with disabilities and their families, as required by IDEA section 634(1) and 34 CFR §§303.340(c), 303.342(e), and 303.344(f) (Timely service provision).

OSEP’s March 4, 2011 verification visit letter found that the American Samoa Department of Health (ASDOH), the lead agency responsible for administering the IDEA Part C program in American Samoa, had failed to provide IDEA Part C services to eligible children between June 2009 and August 2010 (during FFY 2009 and part of FFY 2010) and also during that period that children referred to Part C were placed on waiting lists for evaluations and were not evaluated. The primary reason for this noncompliance was failure by ASDOH and the American Samoa government to finalize contracts with early intervention service (EIS) providers, including specifically a physical therapist, an occupational therapist and a speech language pathologist.¹

ASDOH’s May 25, 2011 submission clarified that children were not evaluated in the areas speech and occupational therapy needs during June 2009 through August 2010 and in the area of physical therapy from January through June 2010. In a report dated May 25, 2011, ASDOH reported that from August 2010 through March 2011, evaluations were completed for all children who had been on waiting lists for specialized evaluations and that three children had not received physical therapy services during that period.

2. Nature of the Special Conditions

American Samoa must provide data to OSEP by February 1, 2012 demonstrating compliance with the 45-day timeline and timely service provision requirements under IDEA Part C. American Samoa must submit two progress reports.

¹ *Department-wide Special Conditions:* American Samoa was also designated a high-risk grantee under 34 CFR §80.12 for all Department grant awards in FFY 2011 based on noncompliance with the Single Audit Act and other fiscal accountability requirements. Under these Department-wide Special Conditions for FFY 2011, ASDOH and the ASG must submit by September 30, 2011: (1) fiscal policies and procedures that address how ASDOH will guarantee that annual service provider contracts are in place by June 1st of every year, to ensure the continuation of Part C services; and (2) a written description of policies and procedures specific to ASDOH’s procurement process as the process relates to the provision of IDEA Part C services, including acquisition of any goods or equipment such as assistive technology needed to provide such services.

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1. In the first progress report, due by September 30, 2011, American Samoa must provide data for the period from March 1, 2011 through August 31, 2011 on:
 - a. 45-day timeline: The number and percentage of infants and toddlers referred to Part C who received a comprehensive evaluation and assessment in all five developmental areas within 45 days of referral; and explanations for any child for whom an evaluation and assessment was not completed or completed after 45 days from referral, including the reason(s) for the delay.
 - b. Timely service provision: The number and percentage of infants and toddlers who were referred to Part C with any developmental delay and, for each child, please list whether: (1) services recommended for eligible children in the areas of developmental delay or concern were identified in the IFSP; (2) services identified on the IFSP were provided to eligible children and their families; and (3) explanations for any child for services were not provided or not provided in a timely manner (within 30 days according to ASDOH), include the reason(s) for the delay.
 - c. For children who were not timely evaluated in the areas of speech and occupational therapy during June 2009 through August 2010 and for those children who were either not timely evaluated or did not receive services in the area of physical therapy during January through August 2010, American Samoa must provide a written assurance to OSEP that it has reviewed the file for each child, reviewed whether compensatory services are appropriate for each child, and offered the parents of such children (and if the parents accepted, provided) compensatory services determined appropriate.
2. In the final progress report, with its FFY 2010 APR, due February 1, 2012, American Samoa must provide updated data for the period from September 1, 2011 through December 31, 2011 on:
 - a. 45-day timeline: The number and percentage of infants and toddlers referred to Part C who received a comprehensive evaluation and assessment in all five developmental areas within 45 days of referral; and explanations for any child for whom an evaluation and assessment was not completed or completed after 45 days from referral, including the reason(s) for the delay.
 - b. Timely service provision: The number and percentage of infants and toddlers who were referred to Part C with any developmental delay and, for each child, please list whether: (1) services recommended for eligible children in the areas of developmental delay or concern were identified in the IFSP; (2) services identified on the IFSP were provided to eligible children and their families; and (3) explanations for any child for services were not provided or not provided in a timely manner (within 30 days according to ASDOH), include the reason(s) for the delay.

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3. Evidence Necessary for Conditions to Be Removed

The Department will remove these Special Conditions if, at any time prior to the expiration of the grant year, American Samoa provides documentation, satisfactory to the Department, that it has met the Special Conditions set forth above to ensure compliance with the 45-day timeline and timely service provision requirements under IDEA Part C .

4. Method of Requesting Reconsideration

ASDOH may write to OSEP's Director, Dr. Melody Musgrove, 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 that are required to be submitted by American Samoa to the Department under the Special Conditions must be submitted by email to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn.: Brenda Wilkins
400 Maryland Avenue, SW
Washington, D.C. 20202-2550
By email: brenda.wilkins@ed.gov