

## **Enclosure B**

### **South Carolina IDEA Part C FFY 2011 Special Conditions**

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

Pursuant to 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) 2011 grant award under Part C of the Individuals with Disabilities Education Act (IDEA Part C). These Special Conditions are 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.

The timely correction requirement was the basis of South Carolina’s 2003 Compliance Agreement and the subject of Special Conditions on South Carolina’s FFYs 2008, 2009, and 2010 Part C Grant awards. Under its FFY 2010 Special Conditions, South Carolina submitted two progress reports with data indicating continued noncompliance with this requirement.

Specifically, the State reported in its clarified FFY 2009 APR and Special Conditions progress reports that 33 (or 49%) of 67 findings of noncompliance identified in FFY 2007 were corrected and that 30 (or 35%) of 85 findings of noncompliance identified in FFY 2008 were timely corrected. The State reported identifying 102 findings in 2009, but the number of findings identified in FFYs 2009 and 2010 and the number actually timely corrected is still unclear. Further, the State did not report under Indicators 1, 7 and 8C of its FFY 2009 APR that it verified correction consistently with OSEP Memo 09-02 such that each EIS program with noncompliance identified in FFY 2007, and FFY 2008: (1) is correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program.

For these reasons, and to ensure that South Carolina timely corrects noncompliance with IDEA Part C requirements, OSEP is imposing these Special Conditions on South Carolina’s FFY 2011 IDEA Part C grant award.

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

Pursuant to these Special Conditions, First Steps must provide data to OSEP demonstrating 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 October 15, 2011, First Steps must provide correction data (through September 30, 2011) for all outstanding findings identified by the State in FFYs 2007, 2008 and 2009 regarding the timely provision of services in Indicator 1, the timely initial evaluation, assessments, and IFSP meeting requirements in Indicator 7, and the timely transition conference requirements in Indicator 8C. The State must report for each of

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these findings reported as corrected that it verified that each EIS program is correctly implementing the specific regulatory requirements based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system. Further, the State must report for each of these findings reported as corrected that each EIS program has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program

- b) In the second Progress Report, due by February 1, 2012 with its FFY 2010 APR, First Steps must provide: (1) updated correction data (through December 31, 2011) for all outstanding findings identified by the State in FFYs 2007, 2008 and 2009; (2) the information required by the measurement for SPP/APR Indicator 9; and (3) all of the information required by Response Table attached to OSEP's June, 2011 letter.
- c) In the Final Progress Report due May 7, 2012, First Steps must provide updated correction data for all outstanding findings identified by the State in FFYs 2007, 2008, 2009 and 2010 (as of April 15, 2012) and confirm that correction was verified consistently with OSEP Memo 09-02 for all findings reported as corrected.

#### **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 fully met the requirements and conditions set forth above, which require South Carolina to submit data and information demonstrating: timely correction of 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 (2) verification of timely correction of noncompliance, consistently with OSEP Memo 09-02.

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

The State can write to OSEP's Director, Melody Musgrove, Ed.D. 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 South Carolina to the Department under the 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  
By email: Rhonda.Spence@ed.gov