

Enclosure B

Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on American Samoa's Federal Fiscal Year (FFY) 2006 grant award under Part C of the Individuals with Disabilities Education Act (Part C or IDEA), related to the following two longstanding areas of noncompliance originally identified in OSEP's June 8, 2004 letter responding to American Samoa's Self-Assessment and FFY 2001 and 2002 Annual Performance Reports (APRs):

1. All infants and toddlers do not receive a comprehensive evaluation and assessment in all five developmental areas, including vision and hearing, within 45 days of referral as required by 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1) (comprehensive, timely evaluation)
2. Early intervention (EI) services are not being provided as required by 34 CFR §§303.340(c) and 303.342(e) (EI service provision).

A. Comprehensive, Timely Evaluation

1. Basis for requiring special conditions.

American Samoa's April 2006 Progress Report indicated that American Samoa had improved substantially in meeting the Part C 45-day timeline requirements. However, on April 19, 2006, American Samoa confirmed to OSEP staff that children who were reported by American Samoa in the April 2006 Report as receiving timely evaluations did not in fact receive comprehensive evaluations that included evaluations of a child's vision and hearing as required under 34 CFR §303.322(c)(3)(ii). Staff from American Samoa's Part C program, Helping Hands, also indicated to OSEP during conversation in April 2006 that an intra-agency agreement or other document clarifying the availability of vision and hearing screenings was needed with the American Samoa Department of Health.

2. Nature of the Special Condition

In the first Progress Report, due on February 1, 2007, American Samoa must provide:

- a. Data from July 1, 2006 through December 31, 2006 on the number and percentage(s) of infants and toddlers referred to Part C who received a comprehensive evaluation and assessment in all five developmental areas as required under 34 CFR §303.322(c)(3)(ii), including vision and hearing within 45 days of referral.
- b. Documented 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; and
- c. A draft intra-agency agreement, memoranda, or other document that clarifies the vision and hearing responsibilities of other agencies, such as the American Samoa Department of Health, and, if appropriate, the Lyndon B. Johnson Medical Center.

In the Final Progress Report, due June 1, 2007, American Samoa must provide:

- a. Data from January 1, 2007 through April 30, 2007 on the number and percentage(s) of infants and toddlers referred to Part C who received a comprehensive evaluation and assessment in all five developmental areas as required under 34 CFR §303.322(c)(3)(ii), including vision and hearing within 45 days of referral;
- b. Documented 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; and
- c. A signed, final intra-agency agreement, memoranda, or other document that clarifies the vision and hearing responsibilities of the American Samoa Department of Health, Helping Hands and, if appropriate, the Lyndon B. Johnson Medical Center.

B. EI Service Provision

1. Basis for requiring special conditions.

Although American Samoa's April 2006 Progress Report reported improvement in timely EI service provision, on April 19, 2006, American Samoa confirmed that children reported in the April 2006 report as receiving speech services did not receive such services from qualified personnel and that a full-time speech language pathologist had just been retained. Given the historical inability to retain a speech language pathologist or other qualified speech personnel in this jurisdiction for the past four or more years, it is unclear whether evaluations of children in the communication domain and speech services are being conducted by qualified personnel and whether the backlog for such services can be timely addressed. OSEP is imposing special conditions to ensure the provision of speech and other needed early intervention services for children identified with speech, language or communication delays who require such services.

2. Nature of the Special Condition

In the first Progress Report, due on February 1, 2006, American Samoa must provide:

Data from July 1, 2006 through December 31, 2006 on the number and percentage(s) of infants and toddlers in the Part C program who were referred to Part C with any developmental delay concerns (including speech and language delays) and, for each child: (1) whether the individualized family service plan (IFSP) identified communication, language or speech delays under 34 CFR 303.344(a)(1), (2) the EI services identified as needed, and (3) whether the EI services identified on the IFSP, including any speech and language, were provided in a timely manner and, if not, why not.

In the Final Progress Report, due on June 1, 2007, American Samoa must provide:

Data from January 1, 2007 through April 30, 2007 on the number and percentage(s) of infants and toddlers in the Part C program who were referred to Part C with any developmental delay concerns (including speech and language delays) and, for each child: (1) whether the individualized family service plan (IFSP) identified communication, language or speech delays under 34 CFR 303.344(a)(1), (2) the EI services identified as needed, and (3) whether the EI services identified on the IFSP,

including any speech and language, were provided in a timely manner and, if not, why not.

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, American Samoa provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require American Samoa to submit data demonstrating compliance with each of the two noncompliance areas that are the subject of the special conditions under Part C.

4. Method of Requesting Reconsideration

The American Samoa Department of Health can write to the Office of Special Education Programs Director, Alexa Posny, 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 American Samoa and the reasons for those requested changes.

5. Submission of Reports

All reports that are required to be submitted by the American Samoa Department of Health to the Department under the Special Conditions should be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Julia Martin
400 Maryland Ave, SW
Washington, DC 20202-2550