

## Enclosure B

### Delaware 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 Delaware's Federal Fiscal Year (FFY) 2006 grant award under Part C of the Individuals with Disabilities Education Act (Part C). The special conditions are imposed to ensure that all children receiving Part C services and potentially eligible for Part B have transition planning conferences, with the approval of the family, at least 90 days prior to the child's 3<sup>rd</sup> birthday as required in 34 CFR §303.148(b)(2)(i) (Timely Transition Conferences).

##### Timely Transition Conferences

In its September 2004 letter regarding the Department of Health and Social Services' (DHSS) 2002 Annual Performance Report (APR), OSEP identified noncompliance with Part C's transition conference requirement at 34 CFR §303.148(b)(2)(i), and accepted DHSS' strategies to address that noncompliance. DHSS was required to submit a final progress report demonstrating compliance by October 16, 2005, but the timeline for submitting the final progress report was later extended to coincide with the State's submission of its State Performance Plan (SPP), which was due on December 1, 2005. DHSS submitted data and analysis about transition conferences in the SPP, under Indicator 8C. The State's baseline data for Indicator 8C, taking family reasons into consideration, was 73% (for FFY 2004) (up from 46% reported in 2004 for the FFY 2003 APR reporting period).

DHSS submitted a data update on June 1, 2006. DHSS stated that data collected during FFY 2005 indicated that 75% of children (33 out of 44) potentially eligible for Part B had timely transition conferences. In its SPP, the State also submitted data in Indicator 9 showing that 21 findings of noncompliance with the transition conference requirement were made during the FFY 2004 reporting period, and 16 of the findings were corrected within one year (76.2%). The data provided by DHSS demonstrate continuing noncompliance with the requirement regarding transition conferences in 34 CFR §303.148(b)(2)(i).

DHSS indicated in its June 2006 submission that it plans to "conduct a focused monitoring in November and December of 2006 in order to collect additional [transition conference] data on all children potentially eligible for Part B. The focused monitoring will select all children potentially eligible for Part B from May 1 through October 31, 2006 . . . ."

#### 2. Nature of the Special Conditions

Pursuant to the Special Conditions, the State must provide data demonstrating compliance with Part C's timely transition conference requirement by June 1, 2007. To document its progress in ensuring the correction of the noncompliance, DHSS must submit to OSEP two Progress Reports, the first with its FFY 2005 APR due on February 1, 2007 and a final Progress Report by June 1, 2007.

In the first progress report, due by February 1, 2007, DHSS must submit the following information:

- A. For May 1, 2006 – October 31, 2006, data from DHSS' focused monitoring showing the number and percentage:
  1. of children potentially eligible for Part B who have a transition planning meeting, with the approval of the family, at least 90 days prior to the child's third birthday; and
  2. for children who do not have a transition planning meeting at least 90 days prior to the third birthday, data and descriptions for why the timeline was not met, including data and analysis of the meetings delayed due to family circumstances.
- B. A list, by early intervention service provider, of any providers the State identifies as being in noncompliance with the transition conference requirements in 34 CFR §303.148(b)(2)(i) based on the focused monitoring data the State reports in (a) above, and all actions the State is taking to ensure correction of that noncompliance within one year of the State's identification;
- C. For the five findings of noncompliance regarding the transition conference requirements in 34 CFR §303.148(b)(2)(i) that were reported in Indicator 9 of the State's SPP as not being corrected within one year, a list, by early intervention service provider, indicating the names of the providers where those findings were made, whether the findings have been corrected, and all actions required by the State to ensure timely transition conferences; and
- D. A list, by early intervention service provider, of the providers the State identified as being in noncompliance with the transition conference requirements in 34 CFR §303.148(b)(2)(i) during the FFY 2005 reporting period (July 1, 2005 through June 30, 2006), whether the findings were timely corrected within one year of the State's identification, and, if not, all actions required by the State to ensure timely transition conferences.

In the second progress report, due by June 1, 2007, DHSS must submit updated monitoring data through June 1, 2007, regarding the status of correction for the noncompliance reported in items B, C and D in the first progress report (above).

### **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, Delaware provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require DHSS to submit data demonstrating compliance related to timely transition conference requirements that are the subject of the special conditions under Part C.

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

The State 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 the State and the reasons for those requested changes.

**5. Submission of Reports**

All reports that are required to be submitted by Delaware to the Department under the Special Conditions should be submitted to:

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