

## Hawaii - 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 Hawaii's Federal Fiscal Year (FFY) 2006 grant award under Part C of the Individuals with Disabilities Education Act (Part C), to ensure correction of the following three longstanding areas of noncompliance identified in OSEP's June 5, 2002 Monitoring Report (2002 Monitoring Report). Under these Special Conditions, the Hawaii Department of Health (HDOH) must ensure:

- a. That all infants and toddlers receive a comprehensive evaluation and assessment in all five developmental areas on a timely basis under 34 CFR §§303.321(e)(2) and 303.322 (timely comprehensive evaluation);
- b. Timely transition planning under 34 CFR §§303.148 and 303.344(h) including: (a) developing transition plans for children receiving Part C services as required by 34 CFR §§303.148(b)(4) and 303.344(h); (b) notifying local educational agencies (LEAs) where the child resides that children receiving Part C services are approaching the age of transition as required by 34 CFR §303.148(b)(1) (LEA notification); and (c) for children potentially eligible under Part B of IDEA, conducting timely transition conferences at least 90 days prior to the child's third birthday, with the approval of the family, as required by 34 CFR §303.148(b)(2)(i) (timely transition planning); and
- c. Correction of noncompliance identified through monitoring as required under 34 CFR §303.501 (monitoring and correction).

#### Background

OSEP's April 1, 2003 letter accepted the State's Improvement Plan to ensure correction of the three findings identified above and directed the State to provide a final progress report with data demonstrating correction by April 1, 2004. OSEP's July 6, 2005 Part C FFY 2005 grant award imposed special conditions regarding the above-identified three areas of noncompliance and directed the State to provide a final progress report with data demonstrating compliance with these three requirements by April 1, 2006. On April 14, and June 7, 2006, Hawaii submitted data indicating continued noncompliance with the three areas listed above.

Specifically, HDOH's April 14, and June 7, 2006 submissions indicated the following data and information for its early intervention programs that provide Part C services in Hawaii, including the three major programs: Early Intervention Services (EIS), Healthy Start (HS), and Public Health Nursing Branch (PHNB).

- a. Timely Comprehensive Evaluation: Regarding the timely comprehensive evaluation finding, HDOH data indicated widely ranging compliance Statewide from 72% to 94% for the period from July 2005 through April 2006, with two of the three major programs reporting in the most recent quarter at 50% or 57%.

- b. **Timely Transition Planning**: Regarding the timely transition plan finding, HDOH reported that:
1. Statewide compliance ranged from 52% to 93% for the period July 2005 through April 2006 for transition planning under 34 CFR §§303.148(b)(4) and 303.344(h) with two of the three major programs reporting 74% and 81% in the most recent quarter;
  2. Statewide compliance ranged from 17% to 59% for the period October 2005 through April 2006 for LEA notification under 34 CFR §303.148(b)(1); and
  3. Statewide compliance ranged from 21% to 53% for the period July 2005 through April 2006 for timely transition conferences under 34 CFR §303.148(b)(2)(i).
- c. **Monitoring and correction**: Regarding the monitoring and correction finding, HDOH as the lead agency provided data indicating that, while HDOH has a monitoring and data system that can identify noncompliance with Part C requirements, it has not been able to demonstrate timely correction. Specifically, HDOH reported that it identified fifteen areas of noncompliance by five local early intervention service programs, but did not provide correction data.

Thus, based on this data and the information in HDOH's April 14, and June 7, 2006 submissions, these special conditions are imposed to ensure: (a) the timely comprehensive evaluation of, and timely transition planning for, infants and toddlers with disabilities and their families in Hawaii; and (b) that HDOH monitors and corrects State-identified noncompliance with Part C requirements in all agencies and programs that provide Part C services in Hawaii.

## 2. **Nature of special conditions**

Pursuant to these **Special Conditions**, the State must provide two Progress Reports, the first with the FFY 2005 Annual Performance Report (APR) that it will submit by February 1, 2007<sup>1</sup>, and the second by June 1, 2007.

- a. **Timely Comprehensive Evaluation**: Regarding the timely comprehensive evaluation
1. In the first Progress Report, due February 1, 2007 with its FFY 2005 APR, the State must provide data, by early intervention service program, showing: (a) the number of referrals received to the Part C system between July 1, 2006 and December 31, 2006; (b) the number and percentage of those infants and toddlers for whom the initial comprehensive evaluations and assessments were conducted within 45 days from referral; (c) the number and percentage of those infants and toddlers for whom the initial evaluations and assessments were not conducted within 45 days from referral (and for these children, the number of children for whom delays were due to documented family circumstances or other explanations as to why the delays occurred); and (d) the corrective actions HDOH required of each early intervention service program found in noncompliance, including HDOH's analysis of the factors

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<sup>1</sup> In addition to the specific reporting requirements set forth with this enclosure, the State must also, as part of its FFY 2005 APR, due by February 1, 2007, provide the required data for Indicator 12C for the reporting period of July 1, 2005 - June 30, 2006.

that have contributed to the delays and strategies HDOH has implemented to address those factors.

2. By June 1, 2007, updated data identified in a.1. above for the period January 1, 2007 through April 30, 2007.
- b. Timely transition planning: Regarding the timely transition plan finding, HDOH must report: by February 1, 2007 monthly data for the period July 1, 2006 through December 31, 2006 and by June 1, 2007 monthly data for the period January 1, 2007 through April 30, 2007. This monthly data, disaggregated by the three major programs: EIS, PHNB, and HS (which data is already being collected by HDOH) must report on the percentage of eligible children receiving Part C services for whom:
1. Transition plans were developed in the IFSP by the child's third birthday as required by 34 CFR §§303.148(b)(4) and 303.344(h):
  2. LEA notification occurred as required by 34 CFR §303.148(b)(1); and
  3. Timely transition conferences were conducted at least 90 days prior to the child's third birthday for children potentially eligible under Part B and with the family's approval as required by 34 CFR §303.148(b)(2)(i).

For each program with noncompliance for each transition area above, HDOH must report in both its February 1, 2007 and June 1, 2007 reports: (a) its analysis of the causes for the noncompliance; and (b) the corrective actions required by HDOH (including data required by Hawaii to demonstrate correction) to ensure correction as soon as possible, but no later than one year from the date of identification.

- c. Monitoring and correction: Regarding the monitoring and correction finding, the State must submit:
1. By February 1, 2007 with its FFY 2005 APR: (a) a list, by each local early intervention service program, of all findings of noncompliance through December 31, 2006 that HDOH has identified since, or reported in, the FFY 2003 APR and whether the finding has been corrected; and (b) for any findings of noncompliance that remain uncorrected, a description of the actions that the State has taken, including enforcement actions, to ensure correction of the finding(s) (this should include the results of the State's analysis of factors that have contributed to any continuing noncompliance, and of the strategies that the State has implemented to address those factors); and
  2. By June 1, 2007, an updated list and description identified in c.1. above for the period January 1, 2007 through May 31, 2007.
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, Hawaii provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Hawaii to submit data demonstrating compliance with each of the three areas 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 Hawaii to the Department under the Special Conditions should be submitted to:

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