

## Enclosure B

### Mississippi 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 Mississippi'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:

1. That all infants and toddlers referred to Part C have evaluations and assessments and an initial Individualized Family Service Plan (IFSP) meeting within 45 days of referral to the early intervention program as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) (45-day timeline).
2. The timely provision of all early intervention services listed on the child's IFSP for which parental consent has been obtained as required by 34 CFR §303.342(e) (timely provision of early intervention services).
3. The timely correction of identified noncompliance as required by 34 CFR §303.501(b) (timely correction).

OSEP's February 27, 2004 letter accepted Mississippi's Part C Improvement Plan to ensure compliance with the three areas of noncompliance from OSEP's 1999 Monitoring Report identified above and directed the State to submit by February 27, 2005, a final Progress Report demonstrating full compliance with these requirements.

#### 45-day Timeline

OSEP's FFY 2005 Part C grant award letter imposed Special Conditions regarding Part C's 45-day timeline requirements due to the State's data indicating noncompliance, and directed the State to submit a final progress report by April 1, 2006 with data demonstrating correction of the noncompliance.

The State's April 14, 2006 progress report indicated that, for the period July 1, 2005 through March 31, 2006, 77% of children (652 of 849) with new IFSPs met the 45-day timeline requirements.<sup>1</sup> While this data may represent improvement from the 65% reported in the State's FFY 2003 APR, it indicates continued noncompliance with Part C's 45-day timeline requirements. Therefore, OSEP is imposing special conditions to ensure the timely identification and evaluation of, and initial IFSP meetings for, infants and toddlers with disabilities as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a).

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<sup>1</sup> The State indicated that it did not include in the reported compliance data, 57 children for whom there were no written IFSPs because data system records were inaccurate and some of the children may have been ineligible for Part C services. Even if a child referred to Part C is determined ineligible, the eligibility determination under Part C must occur within 45 days of referral. Thus, OSEP notes that, when these children are included in the calculation, the compliance level is 71.96%.

## **Timely Provision of Early Intervention Services**

OSEP's March 27, 2006 letter required the State to submit by June 1, 2006, data demonstrating compliance with the timely provision of early intervention services requirement. The State's June 2, 2006 data indicated that, for the period from July 1, 2005 through March 31, 2006, 77% of all early intervention services identified on the IFSP were initiated within 30 days of IFSP development. Although these data represent an improvement from the 72% reported in December 2005 in its State Performance Plan (SPP) and significant improvement from the 37.96% reported in the State's FFY 2003 APR, they demonstrate continued noncompliance. Therefore, OSEP is imposing special conditions to ensure the timely provision of all early intervention services as required by 34 CFR §303.342(e).

## **Timely Correction of Identified Noncompliance**

Because the State's December 2005 SPP failed to provide quantifiable data regarding timely correction of noncompliance, OSEP's March 27, 2006 letter required the State to submit by June 1, 2006, data demonstrating timely correction of noncompliance under 34 CFR §303.501(b). The State's June 2, 2006 report indicated that the lead agency, the Mississippi Department of Health (MDH), was unable to report data regarding timely correction of noncompliance, and further that "there is no evidence that corrective action plans were written or implemented at the district level." The State indicated in its June 2, 2006 submission that, by November 2006, the lead agency will have completed monitoring of all nine Health Districts under its new focused monitoring system. However, given the absence of data regarding this longstanding area of noncompliance, OSEP is imposing special condition to ensure the State's correction of noncompliance through its State's monitoring system as required by 34 CFR §303.501(b).

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

Pursuant to the Special Conditions, the State must provide data demonstrating compliance regarding these three areas by June 1, 2007. To document its progress in ensuring the correction of the noncompliance, MDH must submit to OSEP two Progress Reports, the first with its FFY 2005 Annual Performance Report (APR) due on February 1, 2007<sup>2</sup> and a final Progress Report by June 1, 2007, with the following data.

### **A. 45-day timeline**

1. In the first Progress Report, due February 1, 2007 with its FFY 2005 APR, the State must provide data, from First Steps Information System (FSIS), broken down by Health District, showing: (a) the number of referrals received between July 1, 2006 and November 30, 2006; (b) the number and percentage of those infants and toddlers for whom initial evaluations and assessments and the initial IFSP meeting were conducted within 45 days from referral; (c) the number and percentage of those infants and toddlers

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<sup>2</sup> In addition to the specific reporting requirements set forth in this enclosure, the State must also, as part of its FFY 2005 Annual Performance Report, due by February 1, 2007, provide the required data for Indicators 1,7 and 9 for the reporting period of July 1, 2005 through June 30, 2006.

for whom initial evaluations and assessments and the initial IFSP meeting<sup>3</sup> 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 and explanations as to why other delays occurred); and (d) the corrective actions MDH required of each Health District found in noncompliance, including MDH's analysis of the factors that have contributed to the delays and strategies MDH has implemented to address those factors.

2. In the second Progress Report, due by June 1, 2007, the State must provide: (a) the same data and information identified in A.1. above for the period from December 1, 2006 through March 31, 2007; and (b) updated data through June 1, 2007, regarding the status of correction for any findings of noncompliance reported in the February 1, 2007 report.

#### **B. Provision of Early Intervention Services**

1. In the first Progress Report, due February 1, 2007 with its FFY 2005 APR, the State must provide data from its FSIS data system for the period from July 1, 2006 through November 30, 2006, broken down by Health District, showing: (a) the number and percentage of infants and toddlers with disabilities and their families who timely received all the Part C services identified on their IFSPs; (b) the number and percentage of those infants and toddlers Part C services with disabilities and their families who did not timely receive all the Part C services identified on their IFSPs (including the number of children for whom delays were due to documented family circumstances and explanations as to why other delays occurred); and (c) the corrective actions MDH required of each Health District, including MDH's analysis of the factors that have contributed to the delays and strategies MDH has implemented to address those factors.
2. In the second Progress Report, due by June 1, 2007, the State must provide: (a) the same data and information identified in B.1. above for the period from December 1, 2006 through March 31, 2007; and (b) updated data through June 1, 2007, regarding the status of correction for any findings of noncompliance reported in the February 1, 2007 report.

#### **C. Correction of Noncompliance**

1. In the first Progress Report, due February 1, 2007 with its FFY 2005 APR, the State must provide: a list of the Health Districts monitored by MDH through November 30, 2006, and for each Health District determined to be out of compliance with any Part C requirement, information about the: (a) findings of noncompliance made; (b) timelines for correction; (c) the corrective actions MDH required of the Health District, including any enforcement actions; and (d) MDH's analysis of the factors that have contributed to the noncompliance and the strategies MDH has implemented to address those factors.
2. In the second Progress Report, due by June 1, 2007, the State must provide: (a) the same information identified in C.1. above for the period from December 1, 2006 through

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<sup>3</sup> The State's standard is to develop the initial IFSP at the initial IFSP meeting. Therefore, OSEP will use these data for determining compliance with the 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).

March 31, 2007; and (b) updated information through June 1, 2007, on the data provided in the February 1, 2007 report, regarding the status of each Health District's corrective action, including data submitted to MDH and any additional corrective or enforcement actions MDH has taken to ensure the timely correction of identified noncompliance.

**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, Mississippi provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Mississippi to submit data demonstrating compliance related to the 45-day timeline, timely provision of all early intervention services, and the timely correction of identified noncompliance 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 Mississippi to the Department under the Special Conditions should be submitted to:

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