

## Enclosure B

### Nevada 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 Nevada's Department of Human Resources (NDHR) 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 address the following two areas of noncompliance and to ensure the timely identification, evaluation and transition of infants and toddlers with disabilities under Part C. Under these Special Conditions, Nevada must ensure that:

1. All eligible infants and toddlers have evaluations and assessments and an initial Individualized Family Service Plan (IFSP) meeting within 45 days of referral to the Part C early intervention program as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) (45-day Timeline).
2. 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 third birthday as required by 34 CFR §303.148(b)(2)(i) (Timely Transition Conferences).

#### 45-Day Timeline

OSEP's November 2005 letter accepted Nevada's Improvement Plan to ensure compliance with Part C's 45-day timeline requirement based on noncompliance identified in OSEP's February 5, 2003 letter. The November 2005 letter directed NDHR to provide a final report with data demonstrating compliance by March 31, 2005. OSEP's July 6, 2005 Part C FFY 2005 grant award letter to Nevada imposed Special Conditions to ensure compliance with Part C's 45-day timeline requirement. Under the FFY 2005 Special Conditions, NDHR was required to submit data demonstrating correction of noncompliance by April 1, 2006.

The State submitted data in the April 4, 2006 progress report from FFY 2005 indicating that 55.9% of children (372 of 666) with new IFSPs had an IFSP developed<sup>1</sup> within the 45-day timeline and identified barriers and additional strategies to ensuring timely correction of noncompliance. Barriers included: finding personnel to fill open slots;

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<sup>1</sup> Although the Part C 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) require that an evaluation, assessment and initial IFSP meeting be conducted within 45 days of a child's referral, Nevada has elected to adopt a standard requiring that the IFSP be developed (which includes obtaining parental consent under 34 CFR §303.404 to provide the early intervention services on the IFSP) within 45 days of referral and has provided data under its standard. During OSEP's January 2005 monitoring visit, NDHR staff confirmed that confusion in implementation of the State's 45-day standard had resulted in the IFSP being determined not "developed" until early intervention services were actually available for provision. Nevada has clarified its standard and OSEP expects that updated data from FFY 2005 required to be reported in February 2007 will reflect this clarification and impact the percentage reported as being in noncompliance with Part C's 45-day timeline requirement.

cumbersome and lengthy recruiting procedures; untimely State hiring procedures; and staff retention.

While OSEP recognizes improved compliance data, particularly from data submitted January 2005 to April 2006 (from 18.7% to 55.9%), the data indicate significant noncompliance with the requirement to ensure timely evaluations, assessments and initial IFSP meetings. OSEP is imposing Special Conditions on Nevada's FFY 2006 Part C grant to ensure compliance with Part C's 45-day timeline requirements.

#### Transition Planning Conferences

OSEP's February 5, 2003 letter accepted Nevada's Improvement Plan to ensure compliance with the timely transition conference requirement in 34 CFR §303.149(b)(2)(i) based on the State's Self-Assessment and FFY 2001 APR data. The February 5, 2003 letter directed the State to provide a final progress report that noncompliance was corrected by February 2004, which timeline was extended until March 31, 2005 due to lack of data. OSEP's July 6, 2005 Part C FFY 2005 grant award letter to Nevada imposed Special Conditions to ensure compliance with Part C's timely transition conference requirement. Under the FFY 2005 Special Conditions, NDHR was required to submit data demonstrating correction of noncompliance by April 1, 2006.

The State submitted data in its April 4, 2006 Part C progress report from FFY 2005 indicating that 74.2% of children (46 of 62) had timely transition planning conferences. The State identified barriers and strategies to ensuring timely transition conferences in 34 CFR §303.129(b)(2)(i). Barriers identified included: lack of availability of appointments with school personnel; cancellations of meetings; and untimely staff implementation of transition requirements.

Data submitted by NDHR indicate continued noncompliance with the timely transition planning conference timeline requirement in 34 CFR §303.148(b)(2)(i). OSEP is imposing Special Conditions on Nevada's FFY 2006 Part C grant to ensure compliance with this requirement.

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

Pursuant to the Special Conditions, the State must ensure that it provides data demonstrating compliance with the two areas identified above by June 1, 2007. To document its progress in ensuring the correction of the noncompliance, NDHR must submit two progress reports to OSEP with updated data on February 1, 2007 (for the period July 1, 2006 through November 30, 2006) and on June 1, 2007 (for the period December 1, 2006 through April 30, 2007).

NDHR must submit the following information in each of the data submissions:

### **A. 45-day Timeline**

1. Data, disaggregated by District, showing the number and percentage of infants and toddlers for whom initial evaluations and assessments and the initial IFSP meeting was conducted: a) within 45 days from referral; b) more than 45 days from referral; and c) for this data, the reasons why each child for whom the 45-day timeline was exceeded, including any documented exceptional family circumstances.

2. For any findings of noncompliance that are not yet corrected when the State submits the progress reports, submit 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).
3. A description of all of the State efforts to recruit and hire sufficient qualified Part C personnel to fill open slots and the strategies implemented by the State to address recruiting and hiring procedures barriers.
4. A description of the State efforts to improve and ensure staff retention.

**B. Timely Transition Conferences**

1. Data, disaggregated by District, showing the number and percentage of: a) children receiving Part C services and potentially eligible for Part B who have a transition planning conference, with the approval of the family, at least 90 days prior to the third birthday; and b) for children who do not have a transition planning meeting at least 90 days prior to the third birthday, explanations for why the timeline was not met including an analysis for why meetings are cancelled and not rescheduled (this data may be collected through sampling or monitoring).<sup>2</sup>
2. A description of the State's efforts to ensure timely staff implementation of transition requirements including how the NDHR has implemented the State interagency agreement between NDHR and the Nevada Department of Education regarding notification to local educational agencies under 34 CFR §303.148(b)(1) and timely transition planning and conferences under 34 CFR §§303.148(b)(2) and (4).
3. For any findings of noncompliance that are not yet corrected when the State submits the progress reports, 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).

**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, Nevada provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require Nevada to submit data demonstrating compliance with the 45-day

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<sup>2</sup> NDHR indicated in its April 2006 report that some families do not decide to transition to Part B programs until less than 90 days prior to the child's birthday. If the lead agency has documented that it has offered the family the opportunity for a timely transition conference during the period required by IDEA (at least 90 days, but at the discretion of all parties, within nine months, preceding the child's third birthday) and families choose not to participate during the IDEA timeline, NDHR should not include these children in its calculation in identifying noncompliance with the timely transition conference requirement, but report separately the numbers of such children.

timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) and the transition conference requirement in 34 CFR §303.148(b)(2)(i).

4. **Method of Requesting Reconsideration**

Nevada 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 Nevada and the reasons for those requested changes.

5. **Submission of Reports**

All reports that are required to be submitted by Nevada to the Department under these 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