

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 Arizona's Federal Fiscal Year (FFY) 2008 grant award under Part C of the Individuals with Disabilities Education Act (Part C) based on Arizona's failure to ensure that:

- A) All infants and toddlers have evaluations and assessments and initial Individualized Family Service Plan (IFSP) meetings conducted within 45 days of the child's 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) (IFSP 45-day timeline),¹ and
- B) Early intervention services listed on the child's IFSP are provided to the child and family in a timely manner as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1) (Timely service provision).

Arizona's FFY 2007 Part C grant award was subject to the December 16, 2004 Compliance Agreement between the Arizona Department of Economic Security (DES) and this Department under Part C, which ended on December 17, 2007. Arizona's data in its progress reports under the Compliance Agreement indicate that Arizona had not met the 45-day Timeline and Timely Service Provision requirements that were the subject of the Compliance Agreement.

Regarding the IFSP 45-day timeline requirement, the most recent quarterly data provided in DES's final March 2008 Compliance Agreement Progress Report for the period October through December 2007 indicate slippage from the previous quarter by five early intervention service (EIS) providers. Data for these five EIS providers reflect continued noncompliance with the IFSP 45-day timeline requirement for the last quarter of 2007: (1) Blake-Pinal (63%); (2) SWHD-Maricopa (72%); (3) Blake-Pima 2a (68%); and (4) Blake-Pima 2b (67%); and (5) Blake-Gila region (57%).² Data for these EIS providers for the previous quarter July through September 2007 reflect improvement with the sole exception of REM-Maricopa, which contract DES terminated.

Regarding timely service provision, Arizona's March 2008 final Progress Report data for the period October 1, 2007 through January 31, 2008 reflect continued noncompliance for specific EIS providers in five regions. Specifically, the March 2008 final progress report data show the following levels of compliance:

- (1) **Maricopa County** (41% overall)
DDD (31%), AzEIP/SWHD (77%), and AzEIP/UCP (49%)
(Other EIS providers such as ASDB in Maricopa County at 100%).

¹ Arizona requires that the initial IFSP be developed within 45 days of a child's referral.

² DES data for this period also indicate continued noncompliance by REM-Maricopa, but DES reported that it had terminated its contract with REM-Maricopa.

- (2) **Gila County** (67% overall)
 DDD Payson (quarterly 2007 data at 50%) (DDD-Globe and other EIS providers at 100% in third or fourth quarters).
- (3) **Navaho Nation** – (last data in December 2007 report at 55% overall)
 DDD-Sierra Vista (no specific percentage reported). (Other EIS providers such as ESBF at 100%.)
- (4) **Pima County** (74% overall)
 DDD (three programs but one at 75%) and AzEIP/ESBF (83%)
- (5) **Pinal County** (60% overall)
 Data from DDD-Casa Grande (no specific percentage) and DDD-Coolidge (50%). (Other EIS providers such as DDD-Apache Junction, DDD-Kearney and ESBF reported 100% in Pinal County in the third or fourth quarter of 2007.)

Regarding timely service provision, Arizona’s quarterly report data for the period September 2006 through January 2008 reflect particularly poor performance by the EIS provider DDD-Maricopa County (which is a major EIS provider in a geographic area that serves many eligible children under Part C). DDD in Maricopa County has six offices (Central, East, East Central, North Central, North West, and Southwest). Barriers identified by DES to ensuring the timely provision of services by DDD in Maricopa County include: (1) lack of qualified personnel in Maricopa County; and (2) inconsistency in data documentation procedures by DDD service coordinator staff.

For these reasons and to ensure timely IFSP development for, and provision of services to, infants and toddlers with disabilities, the Department is imposing the following special conditions on Arizona’s Part C FFY 2008 grant.

2. Nature of the Special Conditions

The State must provide data to OSEP by May 15, 2009 demonstrating compliance with the IFSP 45-day timeline and timely service provision requirements.

A. IFSP 45-Day Timeline -- DES must submit two progress reports.

- 1. In the first Progress Report, due by February 2, 2009 with its FFY 2007 APR, data for the period from July 1, 2008 through September 30, 2008, for each of the following five EIS providers (1) Blake-Pinal; (2) SWHD-Maricopa; (3) Blake-Pima 2a; and (4) Blake-Pima 2b; and (5) Blake-Gila region on:
 - (a) The number and percentage of children with IFSPs for whom the 45-day timeline was met; and
 - (b) For those children for whom the 45-day timeline was not met, the causes for the delay, the actions that DES has implemented to address the causes; and the results of those actions.
- 2. In the final Progress Report, due by May 15, 2009, updated data for the period from October 1, 2008 through December 31, 2008 (or later data if available)

on any EIS provider for which compliance or correction was not reported in the February 2, 2009 Progress Report on:

- (a) The number and percentage of children with IFSPs for whom the 45-day timeline was met; and
- (b) For those children for whom the 45-day timeline was not met, the causes for the delay, the actions that DES has implemented to address the causes; and the results of those actions.

B. Timely Service Provision -- DES must submit two progress reports.

1. In the first Progress Report, due by February 2, 2009 with its FFY 2007 APR, its quarterly data for the period from July 1, 2008 through September 30, 2008, for each of the following five EIS providers: (1) Gila County – DDD Payson; (2) Maricopa County – AzEIP/SWHD, AzEIP/UCP and DDD; (3) Navaho Nation – DDD-Sierra Vista; (4) Pima County – DDD and AzEIP/ESBF; and (5) Pinal County – DDD Casa Grande and DDD Coolidge on:
 - (a) The number and percentage of infants and toddlers with disabilities for whom services on the IFSP were timely initiated (i.e., services on initial IFSPs and services added to subsequent IFSPs), including for any services not timely initiated, the type of EI service;
 - (b) For those children for whom services were not timely initiated, the causes for the delay, the actions that DES has implemented to address the causes; and the results of those actions;
 - (c) The number and type of personnel identified by DES as needed by DDD in Maricopa County to ensure the timely provision of services and the steps DES is taking to recruit and retain personnel or to contract with EIS providers for DDD-Maricopa County; and
 - (d) The steps DES has taken to ensure that DDD service coordinators in Maricopa County document on IFSPs and enter data accurately to reflect when Part C services are initiated (including any record review by DES/AzEIP, AzEIP training of DDD service coordinators, and other actions).
2. In the final Progress Report, due by May 15, 2009, updated data for the period from October 1, 2008 through December 31, 2008 (or more recent data if available) on any EIS provider listed above for which compliance or correction was not reported in the February 2, 2009 Progress Report on:
 - (a) The number and percentage of infants and toddlers with disabilities for whom Part C services on the IFSP were timely initiated (i.e., services on initial IFSPs and services added to subsequent IFSPs), including for any services not timely initiated, the type of EI service;
 - (b) For those children for whom services were not timely initiated, the causes for the delay, the actions that DES has implemented to address the causes; and the results of those actions;

- (c) Updates on the number and type of personnel identified by DES as needed by DDD in Maricopa County to ensure the timely provision of services and the steps DES-AzEIP and DES-DDD have taken to recruit and retain or contract with EIS providers for DDD-Maricopa County; and
- (d) The steps DES-AzEIP and DES-DDD (State offices) have taken to ensure that DDD service coordinators in Maricopa County document on IFSPs and enter data accurately to reflect when Part C services are initiated (including any record review by DES/AzEIP, AzEIP training of DDD service coordinators, and other actions).

3. Evidence Necessary to Remove Conditions

The Department will remove the Special Conditions if, at any time prior to the expiration of the grant year, Arizona provides documentation, satisfactory to the Department, that it has met the conditions set forth above.

4. Method of Requesting Reconsideration

Arizona may write to William Knudsen, OSEP Acting Director, 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 DES and the reasons for those requested changes.

5. Submission of Reports

All reports under these Special Conditions must be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attn: Debra O. Jennings
400 Maryland Ave., S.W.
Washington, D.C. 20202-2550
By e-mail: debra.jennings@ed.gov