

Enclosure B

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

- 1) All infants and toddlers referred to Part C have evaluations and assessments and initial Individualized Family Service Plan (IFSP) meetings conducted 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), and
- 2) Early intervention services listed on the child's IFSP are provided to the child and family as required by 34 CFR §303.342(e) (Service Provision).

Special Conditions imposed on New Mexico's FFY 2007 grant award required the New Mexico Department of Health (NMDOH) to submit two reports, the first by February 1, 2008 and a final progress report, by June 1, 2008 demonstrating compliance with Part C's 45-day timeline and service provision requirements.

With regard to both the 45-day timeline and service provision requirements, the State was required to submit updated correction data for the State's remaining FFY 2004 findings (based on seven EI providers) reported in Indicator 9 of the State's FFY 2005 APR submitted on February 1, 2007, and the providers listed in the State's June 2006 progress report that had less than full compliance with those requirements (three providers for service provision and thirteen providers for the 45-day timeline).

In Indicator 1 of its FFY 2006 APR, the State provided updated information for the three provider agencies listed in the State's June 2006 progress report indicating that they met compliance with the service provision requirements in August 2006. However, the State did not provide updated correction data for the seven providers reported in Indicator 9 of the State's FFY 2005 APR as not having corrected noncompliance with the service provision or 45-day timeline requirements. In addition, with regard to the thirteen providers listed in the State's June 2006 progress report, the State reported data in its February 1 and June 1, 2008 progress reports indicating that twelve EI providers were still in noncompliance with the 45-day timeline requirements.

Given the longstanding nature of these areas of noncompliance, and the lack of updated correction data for the seven findings identified in FFY 2004 regarding both issues,¹ OSEP examined the FFY 2006 data that the State publicly reported on each EIS program, as required by Section 616(b)(2)(C)(ii)(I) of the IDEA (<http://www.health.state.nm.us/ddsd//fit/documents/FY07ReporttothePublic.pdf>). That data indicated continuing noncompliance with the 45-day timeline requirements by

¹ The State's FFY 2005 APR did not list the names of the seven providers that had not corrected the findings of noncompliance identified in FFY 2004, so OSEP cannot independently determine whether those providers have met compliance with the 45-day timeline and service provision requirements.

21 EI providers² (including the 12 providers listed in the State's June 2008 progress report) during FFY 2006, and continuing noncompliance with the service provision requirements by 19 EI providers.³

2. Nature of the Special Conditions

A. 45-day Timeline

The State must provide data by May 15, 2009 demonstrating compliance with the 45-day timeline requirements. To document its progress in ensuring compliance, NMDOH must submit to OSEP two Progress Reports, the first by November 1, 2008 and a final Progress Report with its FFY 2007 APR due February 2, 2009.

In the first Progress Report, due November 1, 2008, the State must provide updated information and compliance data from July 1, 2008 through September 30, 2008 for the 21 EI providers from the State's FFY 2006 publicly reported data listed in footnote 2 of this document. For each of those EI providers, with regard to Part C's 45-day timeline requirements, the State must provide: (1) the extent of the system delays, (2) the cause of the system delays, (3) the actions the State is taking to address those delays, and (4) updated compliance data for July 1 through September 30, 2008, based on the State's quarterly reports.

In the second Progress Report, due February 2, 2009 with the State's FFY 2007 APR, the State must provide updated compliance data for October 1 through December 31, 2008, based on the State's quarterly reports, for any of the 21 EI providers that do not show compliance in the November 1, 2008 progress report.

B. Service Provision

The State must provide data by May 15, 2009 demonstrating compliance with the service provision requirements. To document its progress in ensuring compliance, NMDOH must submit to OSEP two Progress Reports, the first by November 1, 2008 and a final Progress Report with its FFY 2007 APR due February 2, 2009.

In the first Progress Report, due November 1, 2008, the State must provide updated information and compliance data from July 1, 2008 through September 30, 2008 for the 19 EI providers from the State's FFY 2006 publicly reported data listed in footnote 3 of this document. For each of those EI providers, with regard to Part C's service provision requirements, the State must provide: (1) the extent of the system delays, (2) the cause of

² Abrazos Family Support Services, Alta Mira Specialized Family Services, Children's Medical Services (CMS), Citizens for the Developmentally Disabled (The Children's Workshop), Disability Services, Inc., ENMRSH, Leaders, Life Quest, Inc., Mescalero Apache Early Childhood Program, Mosaic, Native American Pueblo Parent Resources, Inc. (NAPPR), New Vistas, PB&J Family Services, Pecos Valley Regional Center Cooperative, Pine Hill Early Intervention Program, Presbyterian Medical Services, RCI, Inc., Taos-ARC, Tobosa, Tresco TOTS, Inc., and Zia Therapy Center.

³ Aprendamos Intervention Team, CARC, Inc., Disability Services, Inc., ENMRSH, Laguna Pueblo Division of Early Childhood, Las Cumbres Learning Services, La Vida Felicidad, Inc., Life Quest, Inc., Mescalero Apache Early Childhood Program, Mosaic, Multicultural Evaluation & Consultation Associates (MECA), NAPPR, Pecos Valley Regional Center Cooperative, Pine Hill Early Intervention Program, Presbyterian Medical Services, RCI, Inc., Tobosa, Tresco TOTS, Inc., and UNM Developmental Care Continuity Program (DCCP).

the system delays, (3) the actions the State is taking to address those delays, and (4) updated compliance data for July 1 through September 30, 2008, based on the State's quarterly reports.

In the second Progress Report, due February 2, 2009 with the State's FFY 2007 APR, the State must provide updated compliance data for October 1 through December 31, 2008, based on the State's quarterly reports, for any of the 21 EI providers that do not show compliance in the November 1, 2008 progress report.

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, New Mexico provides documentation, satisfactory to the Department, that it has met the conditions set forth above, which require New Mexico to submit data demonstrating compliance with the Part C 45-day timeline and service provision requirements.

4. Method of Requesting Reconsideration

New Mexico 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 NMDOH 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: Virginia Sheppard
400 Maryland Ave., S.W.
Washington, D.C. 20202-2550