

Enclosure B

South Carolina FFY 2008 Special Conditions

I. Basis for Requiring Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on South Carolina's Federal Fiscal Year (FFY) 2008 grant award under Part C of the Individuals with Disabilities Education Act (Part C). The South Carolina Department of Health and Environmental Conservation (DHEC) is the lead agency responsible for implementing the Part C early intervention program in South Carolina.

The Department entered into a Compliance Agreement in September 2003, under which DHEC developed and implemented its new monitoring system to enable the State to identify and timely correct noncompliance with Part C requirements as required by 34 CFR §303.501(b). South Carolina's March 2007 final submission under its Compliance Agreement included a chronological list of early intervention service (EIS) programs monitored, a list of findings of noncompliance (including findings made in FFY 2004, FFY 2005 and FFY 2006) and the status of correction of those findings (including correction of some findings). The Compliance Agreement ended in September 2006 and South Carolina was required to continue reporting on its timely correction of noncompliance through the State Performance Plan (SPP) and Annual Performance Report (APR) process.

The State failed to provide any data on timely correction under Indicator 9, in its FFY 2005 APR submitted on February 1, 2007. OSEP's June 15, 2007 response to that APR required the State to provide, in its FFY 2006 APR, updated correction data for the findings that South Carolina had reported in its March 2007 Compliance Agreement submission. However, in its FFY 2006 APR submitted on February 1, 2008, the State reported that it had made no findings of noncompliance and that it had no data on timely correction to report. In addition, the State reported no data under Indicator 9 for FFY 2004 in its original SPP submitted in December 2005. Given the lack of data on timely correction for FFYs 2004, 2005 and 2006, OSEP cannot determine whether the State is exercising its general supervision responsibilities to monitor for compliance with Part C requirements and to ensure timely correction of identified noncompliance as required by 34 CFR §303.501(b) and thus, is imposing these Special Conditions.

II. Nature of the Special Conditions

Pursuant to these Special Conditions, the State must provide to OSEP by May 15, 2009 data demonstrating compliance with the requirements of 34 CFR §303.501(b). To document its progress in ensuring the timely correction of noncompliance, DHEC must submit:

1. Its first progress report with the State's FFY 2007 APR due by February 2, 2009, data through December 31, 2008 (in a list or chart format) on: (1) each EIS program monitored in FFYs 2004, 2005, 2006 and 2007 (from July 1, 2004 through July 30, 2008) and for the first half of FFY 2008 (from July 1, 2008 through December 31, 2008); (b) the number of findings of noncompliance that the State made as a result of such monitoring, disaggregating by topical Part C requirement, the area of those findings); (c) the number and percentage of those findings corrected within one year from identification; (d) for those findings not corrected, a description of DHEC's efforts to ensure compliance and the status of correction; and (e) all other efforts by DHEC to ensure compliance during the FFYs 2006 and 2007 reporting periods (such as data reviews, self-assessments, etc.).

2. In its second progress report, due by May 15, 2009, updated data through April 30, 2009 (in a list or chart format) on: (1) each EIS program monitored in FFYs 2004, 2005, 2006, 2007 and 2008 (from July 1, 2004 through April 30, 2009); (b) the number of findings of noncompliance that the State made as a result of such monitoring, disaggregating by topical Part C requirement, the area of those findings); (c) the number and percentage of those findings corrected within one year from identification; (d) for those findings not corrected, a description of DHEC's efforts to ensure compliance and the status of correction; and (e) all other efforts by DHEC to ensure compliance during the FFYs 2006 and 2007 reporting periods (such as data reviews, self-assessments, etc.).

III. 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, South Carolina provides documentation, satisfactory to the Department, that it has satisfied the Special Conditions set forth above, which require South Carolina to submit data demonstrating that DHEC is monitoring for compliance with Part C requirements and ensuring the timely correction of identified noncompliance as required by 34 FR §303.501(b).

IV. Method of Requesting Reconsideration

South Carolina may write to OSEP Acting Director, William W. Knudsen, 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 DHEC and the reasons for those requested changes.

V. Submission of Reports

All reports submitted by South Carolina to the Department under these Special Conditions must be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Attention: Dawn C Ellis
400 Maryland Avenue, S.W.
Washington, D.C. 20202-2550