

DEPARTMENT OF EDUCATION

South Carolina Department of Health and Environmental Control; Written Findings and Compliance Agreement Under the Infants and Toddlers With Disabilities Program—Part C of the Individuals With Disabilities Education Act

AGENCY: Office of Special Education Programs, Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of written findings and compliance agreement.

SUMMARY: Section 457 of the General Education Provisions Act (GEPA) authorizes the U.S. Department of Education (Department) to enter into a compliance agreement with a recipient that is failing to comply substantially with Federal program requirements. In order to enter into a compliance agreement, the Department must determine, in written findings, that the recipient cannot comply until a future date with the applicable program requirements and that a compliance agreement is a viable means of bringing about such compliance. On September 9, 2003, the Department entered into a compliance agreement with the South Carolina Department of Health and Environmental Control (DHEC). Under section 457(b)(2) of GEPA, the written findings and compliance agreement must be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jacquelyn Twining-Martin, U.S. Department of Education, Office of Special Education Programs, 330 C Street, NW., room 3316, Washington, DC 20202. Telephone (202) 205-8258.

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SUPPLEMENTARY INFORMATION: Under Part C of the Individuals with Disabilities Education Act (Part C), the Department provides funds to States to, and the State must then, “maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.” 20 U.S.C. 1433, 1435(a)(2),

1437(a)(3)(A); 34 CFR 303.1 and 303.160. Early intervention services are services that are, among other things, “designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—(i) physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; or (v) adaptive development”; “are provided by qualified personnel”; “to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate”; and “are provided in conformity with an individualized family service plan adopted in accordance with section 1436 of this title.” 20 U.S.C. 1432(4)(C), (F), (G) and (H).

On January 6, 2003, following an on-site monitoring visit to South Carolina (SC) in February 2002 by the Department’s Office of Special Education Programs (OSEP), OSEP issued a final monitoring report that documented non-compliance by the SC DHEC with Part C. The monitoring report identified DHEC’s failure to meet its responsibilities under Part C. Specifically, the monitoring report identified DHEC’s failure to:

- (1) Meet its general supervision responsibilities and monitor for compliance with regard to all requirements of Part C;
- (2) Ensure that a coordinated child find and public awareness system results in the identification of all eligible infants and toddlers with disabilities;
- (3) Ensure that all infants and toddlers referred to Part C receive timely and comprehensive evaluations in all five developmental areas such that evaluations and assessments are completed within 45 days of referral to enable the initial Individualized Family Service Plan (IFSP) team meeting to be convened in that time period;
- (4) Ensure that all early intervention services needed by an eligible infant or toddler with a disability and the child’s family are identified on the IFSP and provided in a timely manner; and
- (5) Conduct timely and content-appropriate transition planning including transition meetings for children who are transitioning from Part C.

On April 19, 2002, DHEC requested to enter into a compliance agreement with the Department. The purpose of a compliance agreement is “to bring the recipient into full compliance with the applicable requirements of law as soon

as feasible and not to excuse or remedy past violations of such requirements.” 20 U.S.C. 1234f(a). Before entering into a compliance agreement, the Department must hold a hearing at which the recipient, individuals affected by any potential compliance agreement, including infants and toddlers with disabilities and their families or other representatives, and other interested parties are invited to participate. In that hearing, the recipient has the burden of persuading the Department that full compliance with the applicable requirements of law is not feasible until a future date and that a compliance agreement is a viable means for bringing about such compliance in no more than three years. 20 U.S.C. 1234f(b)(1), (c). If, on the basis of all the evidence available to it, the Secretary determines that the recipient has met that burden, the Secretary is to make written findings to that effect and publish those findings, together with the substance of the compliance agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

At a May 1, 2003 hearing conducted by Department officials, witnesses representing DHEC, families of infants and toddlers with disabilities, and other concerned organizations (including State agencies and other stakeholders) testified on the question of whether the Department should grant DHEC’s request to enter into a compliance agreement. Additional written testimony was submitted to the Department by families of infants and toddlers with disabilities and children with disabilities and concerned organizations both prior to and after the public hearing. On September 9, 2003, the Department, after reviewing all oral and written testimony submitted and other relevant materials, issued the attached Written Findings and Decision (Decision) of the Secretary as required under 20 U.S.C. 1234f(b)(2). As noted in the Decision, the Department has determined that DHEC has met its burden of establishing the following: (1) That compliance by DHEC with Part C is not feasible until a future date, and (2) that DHEC will be able to carry out the terms and conditions of the compliance agreement it has signed (Compliance Agreement) and will come into full compliance with Part C within three years of the date of the Decision. During the effective period of the Compliance Agreement, which expires three years from the date of the Decision, DHEC will be eligible to receive Part C funds as long as it complies with all the terms and conditions of the Compliance Agreement.

As required by section 457(b)(2) of GEPA, 20 U.S.C. 1234f(b)(2), the text of the Secretary's Decision is set forth as Appendix A and the Compliance Agreement is set forth as Appendix B of this notice.

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(Authority: 20 U.S.C. 1234c, 1234f, 1431 through 1445)

Dated: October 22, 2003.

Troy R. Justesen,

Acting Assistant Secretary for Special Education and, Rehabilitative Services.

Appendix A—Text of the Written Findings and Decision of the Secretary of Education

I. Introduction

The United States Department of Education (Department) has determined, pursuant to 20 U.S.C. 1234c, that the South Carolina Department of Health and Environmental Control (DHEC) has failed to comply substantially with the requirements of Part C of the Individuals with Disabilities Education Act (Part C or IDEA), 20 U.S.C. 1401, 14311–1445.¹ On January 6, 2003, the Department issued a final monitoring report for South Carolina (SC) that documented DHEC's failure to comply with Part C in its provision of early intervention services to infants and toddler with disabilities and their

families. Specifically, DHEC has failed to:

(1) Meet its general supervision responsibilities and monitor for compliance with regard to all requirements of Part C, including appropriately administering the Part C program, monitoring State agencies, institutions, organizations and private providers that are part of the Part C system, and enforcing obligations against and providing training and technical assistance to all such entities and individuals, when identified as part of a required improvement strategy;

(2) Ensure that a coordinated child find system results in the identification of all eligible infants and toddlers with disabilities and that public awareness materials about the infants and toddlers with disabilities program are made available to the public, including rural, minority and underrepresented populations;

(3) Ensure that all infants and toddlers referred to Part C receive timely and comprehensive evaluations in all five developmental areas such that evaluations and assessments are completed within 45 days of referral to enable the initial Individualized Family Service Plan (IFSP) team meeting to be convened in that time period;

(4) Ensure that all early intervention services needed by an eligible infant or toddler with a disability and the child's family are identified on the IFSP and provided in a timely manner; and

(5) Conduct timely and content-appropriate transition planning including transition meetings for children who are transitioning from Part C.

As a consequence, the Department concluded, pursuant to the General Education Provisions Act (GEPA) at 20 U.S.C. 1234c, that DHEC is not complying with Part C.

On April 19, 2002, DHEC requested the Department enter into a compliance agreement with DHEC as a means of ensuring a continued flow of Part C funds to South Carolina while a structured plan to come into full compliance with Part C is implemented.

On May 1, 2003, Department officials conducted a public hearing in South Carolina in accordance with the GEPA requirements of 20 U.S.C. 1234f(b), at which oral and written testimony were received. Witnesses representing DHEC, affected families of infants and toddlers with disabilities, and other concerned organizations (including State stakeholders) testified at this hearing on the question of whether the Department should grant DHEC's request to enter into a Compliance Agreement. Additional written testimony was

submitted to the Department by affected families, and concerned organizations both prior to and after the public hearing. The Department has reviewed all oral and written testimony submitted, the Compliance Agreement DHEC has signed, and other relevant materials.² On the basis of this evidence, the Department concludes, and issues these written findings as required by 20 U.S.C. 1234f(b)(2), that DHEC has met its burden of establishing the following: (1) That compliance by DHEC with Part C is not feasible until a future date, and (2) that DHEC will be able to carry out the terms and conditions of the Compliance Agreement it has signed and will come into full compliance with Part C within three years of the date of this decision. During the effective period of the Compliance Agreement, which expires three years from the date of this decision, DHEC will be eligible to receive Part C funds as long as it complies with all the terms and conditions of the Agreement.

II. Legal Basis for Compliance Agreement: Requirements Under Part C and Under GEPA

A. Part C of the Individual With Disabilities Education Act

Part C was passed in response to Congress' finding that "there is an urgent and substantial need to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay." 20 U.S.C. 1431(a)(1). Congress established Part C "to provide financial assistance to States to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families."³ 20 U.S.C. 1441(b)(1). Early intervention services are defined as "developmental services that":

(A) Are provided under public supervision;

(B) Are provided at no cost except where Federal or State law provides for

² A copy of the Compliance Agreement is appended to, and incorporated into, this decision as Attachment A.

³ An "infant or toddler with a disability" "(A) means an individual under 3 years of age who needs early intervention services because the individual (i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or (ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and (B) may also include, at a State's discretion, at-risk infants and toddlers." 20 U.S.C. 1432(5).

¹ Under the Department of Education Organization Act (DEOA), Congress transferred the administration of the IDEA from the Commissioner of Education to the Secretary of Education. 20 U.S.C. 3441(a)(1) and (a)(2)(H). Section 207 of the DEOA, 20 U.S.C. 3417, in turn delegates responsibility for IDEA to the Assistant Secretary for Special Education and Rehabilitative Services. The Office of Special Education Programs (OSEP), which is part of the Office of Special Education and Rehabilitative Services, is the office within the Department that is primarily responsible for administering Part C of the IDEA. 20 U.S.C. 1402(a).

a system of payments by families, including a schedule of sliding fees;

(C) Are designed to meet the developmental needs of an infant or toddler with a disability in any one or more of the following areas—(i) physical development; (ii) cognitive development; (iii) communication development; (iv) social or emotional development; or (v) adaptive development;

(D) Meet the standards of the State in which they are provided, including the requirements of this part;

(E) Include [a list of early intervention services];

(F) Are provided by qualified personnel;

(G) To the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

(H) Are provided in conformity with an individualized family service plan (IFSP) adopted in accordance with section 636 (20 U.S.C. 1436). 20 U.S.C. 1432(4); 34 CFR 303.12.

In order to ensure that all early intervention services are provided in compliance with Part C, a State must ensure that the Part C requirements regarding general supervision (including monitoring), child find and public awareness, timely evaluations and assessments, IFSP development, timely provision of early intervention services, and transition planning are met.

The lead agency's general supervision responsibilities include monitoring, ensuring correction and enforcement, providing technical assistance and training and ensuring the provision of procedural safeguards through the due process and State complaint procedures. 20 U.S.C. 1435(a)(1)(A); 34 CFR 303.500 through 303.512. The lead agency is required to ensure that all programs and activities used by the State to carry out Part C, whether or not they receive Part C funds, are monitored for compliance with Part C requirements and that interagency agreements are in place to ensure that services are provided in a timely manner. 20 U.S.C. 1435(a)(1)(A); 34 CFR 303.501 and 303.523 through 303.528. When the lead agency determines that program providers and other agencies, institutions and organizations that are part of the Part C system in a State are not in compliance, Part C requires the lead agency to enforce the requirements of Part C and correct deficiencies that are identified through monitoring and its general supervision authority. 20 U.S.C. 1435(a)(1)(A); 34 CFR 303.501(b)(2) and (4). The lead agency is also responsible for providing technical assistance and

training to agencies, institutions and organizations that administer the Part C program. 20 U.S.C. 1435(a)(1)(A); 34 CFR 303.501(b)(3). Part C requires that there be a single line of responsibility and clear interagency guidelines to ensure that one agency, the lead agency, is responsible for administering Part C in the State. 20 U.S.C. 1435(a)(1)(A); 34 CFR 303.500. General supervision has been a challenge for DHEC due to the large number of agencies that provide some part of Part C services and the number of private contractors.

The Part C general supervision requirement must be read in conjunction with DHEC's responsibility under GEPA at 20 U.S.C. 1232d(b)(3), to adopt and use proper methods of administering the Part C program, including, among other requirements: (1) Monitoring of agencies, institutions, and organizations responsible for carrying out Part C; (2) the enforcement of the obligations imposed on those agencies, institutions, and organizations under Part C; (3) providing technical assistance, where necessary, to such agencies, institutions, and organizations; and (4) the correction of deficiencies in program operations that are identified through monitoring or evaluation.

Other Part C requirements include ensuring that all infants and toddlers with disabilities and their families: Are timely referred into the program, are assigned a single service coordinator, are evaluated in all five developmental areas, and, if determined eligible, have IFSPs timely developed that address all content requirements, are timely provided those early intervention services and receive timely transition meetings and plans as they exit the program. This system is intended to be seamless so that an infant and toddler with a disability and the family receive all appropriate services to support them. DHEC's failure to ensure the provision of key components of the system have led to waiting lists for evaluations and assessments and early intervention services.

B. The Department's Authority To Enter Into a Compliance Agreement

If a State fails to comply substantially with the requirements of Part C, the IDEA authorizes the Department to withhold funds from that State or refer the matter to the Department of Justice. 20 U.S.C. 1416(a) and 1442. GEPA provides the Department with additional options for dealing with a grant recipient that it concludes is "failing to comply substantially with any requirements of law applicable to such funds." 20 U.S.C. 1234c. These

remedies include issuing a cease and desist order. 20 U.S.C. 1234c. As an alternative to withholding funds, issuing a cease and desist order, or referral to the Department of Justice, the Department may enter into a Compliance Agreement with a recipient that is failing to comply substantially with specific program requirements. 20 U.S.C. 1234f. In this instance, and at DHEC's request, the Department has decided to address DHEC's failure to comply substantially with the requirements of Part C through a Compliance Agreement.

The purpose of a Compliance Agreement is "to bring the recipient into full compliance with the applicable requirements of the law as soon as feasible and not to excuse or remedy past violations of such requirements." 20 U.S.C. 1234f(a). Before entering into a Compliance Agreement, the Department must hold a hearing at which the recipient, affected infants and toddlers with disabilities and their parents or their representatives, and other interested parties are invited to participate. In that hearing, the recipient has the burden of persuading the Department that full compliance with the applicable requirements of law is not feasible until a future date and that a Compliance Agreement is a viable means for bringing about such compliance in no more than three years. 20 U.S.C. 1234f(b)(1). If, on the basis of all the evidence available to it, the Secretary determines that the recipient has met that burden, he is to make written findings to that effect and publish those findings, together with the substance of the Compliance Agreement, in the **Federal Register**. 20 U.S.C. 1234f(b)(2).

A Compliance Agreement must set forth an expiration date not later than 3 years from the date of the Secretary's written findings under 20 U.S.C. 1234f(b)(2), by which time the recipient must be in full compliance with all program requirements. In addition, the Compliance Agreement must contain the terms and conditions with which the recipient must comply during the period that the Agreement is in effect. 20 U.S.C. 1234f(c). If the recipient fails to comply with any of the terms and conditions of the Compliance Agreement, the Department may consider the Agreement no longer in effect and may take any action authorized by law, including withholding of funds, issuing of a cease and desist order, or referring the matter to the Department of Justice. 20 U.S.C. 1234f(d).

III. Analysis of DHEC'S Ability To Meet the Requirements of the Compliance Agreement

A. How the Department Determines Whether a Compliance Agreement Is Appropriate

In determining whether it is appropriate to enter into a Compliance Agreement with DHEC, the Department must first determine two issues. First, the Department determines whether compliance by DHEC with Part C (including the requirements concerning general supervision including monitoring, child find and public awareness, timely and comprehensive evaluations, complete IFSP development, timely provision of early intervention services, and transition from Part C) is not immediately feasible. 20 U.S.C. 1234f(b). Second, the Department determines whether DHEC will be able to come into compliance with Part C within a period of no more than three years. If the Department cannot answer these questions in the affirmative, then it is inappropriate for the Department to enter into a Compliance Agreement between the Department and DHEC under 20 U.S.C. 1234f. In arriving at the terms of the Compliance Agreement, DHEC must not only come into full compliance by the end of the effective period of the Compliance Agreement, it must also make steady and measurable progress toward the Agreement's objectives while it is in effect.

B. DHEC Cannot Immediately Come Into Compliance With Part C Requirements

DHEC's failure to comply with the requirements of Part C, as documented in OSEP's January 6, 2003 monitoring report and acknowledged by DHEC, is caused by a number of factors including the fact that early intervention services in South Carolina are provided through complex interagency and private contractor structures, and, as a result, cannot be corrected immediately. The witnesses who testified at the public hearings and the Department's experience in monitoring DHEC's early intervention program, BabyNet, provide compelling support for this conclusion.

1. DHEC Cannot Come Into Compliance Immediately With Those Part C Requirements That Were the Subject of OSEP's Findings

As noted below and confirmed through the testimony of DHEC, parents and providers, DHEC is not in compliance now, and cannot immediately come into compliance, with the following specific Part C

requirements that were findings in OSEP's January 6 2003 report:

- Employing proper methods of administering the Part C program, including monitoring all agencies, institutions, providers, and organizations used by SC to provide Part C services, enforcing Part C requirements against these entities and providing training and technical assistance;
- Ensuring a coordinated child find system and that public awareness materials are made available to the public;
- Ensuring that all infants and toddlers who are referred to Part C are evaluated in all five developmental areas within the required time frame;
- Ensuring that all eligible infants and toddlers with disabilities have IFSPs that are developed with the required content, the initial IFSP meeting is convened within 45 days of referral, and early intervention services listed on the IFSP are provided in a timely manner; and
- Conducting timely transition planning for all children by preparing a transition plan, holding a transition meeting and notifying the local educational agency (LEA) of children approaching the age of transition.

2. DHEC Testified That It Cannot Immediately Come Into Full Compliance With Part C Requirements Due to Three Major Long-Term Barriers

DHEC acknowledged that it is not complying with Part C and cannot immediately come into compliance with Part C requirements. In his power-point presentation and written testimony, *DHEC Presentation at Compliance Agreement Public Hearing*, the DHEC BabyNet Director, David Steele, identified the following three principal barriers to its ability to come into immediate compliance with Part C: the lack of a monitoring system and interagency monitoring and cooperation, the lack of a reliable data system, and the lack of available qualified personnel. DHEC acknowledged that it does not have a systemic monitoring system to monitor all agencies, providers and programs that provide early intervention services in South Carolina and continues to have infants and toddlers on waiting lists for evaluations and assessments as well as for early intervention services in more than one geographic area. The need for interagency cooperation on all aspects of service delivery under the Part C system is a key challenge.

One major barrier to immediate compliance is DHEC's need to establish a monitoring system, since South

Carolina's statewide system of early intervention services involves efforts from six different State agencies as well as numerous private contractors. Six different agencies (including DHEC) conduct child find, evaluations and assessments, transition planning and provide service coordination and early intervention services. During the public hearings, DHEC officials testified that DHEC does not have a monitoring system to monitor its interagency partners or its private providers that conduct evaluations and transition planning and provide service coordination, and early intervention services. The only efforts DHEC had made to monitor its BabyNet program failed to identify and require correction of many important violations of Part C. DHEC also did not have any protocols for evaluating other agencies nor did it have uniform standards for training and services that were in compliance with Part C. DHEC is just now beginning to establish a mechanism for working with each of these agencies on an ongoing basis to coordinate all Part C activities including monitoring these agencies' compliance with Part C requirements and providing joint and collaborative training and technical assistance.

DHEC cannot immediately address this barrier. The first critical step will be the development of memoranda of agreements that address each agency's responsibility in addressing Part C's requirements. Another critical step will be interagency cooperation to allow DHEC to monitor how each agency conducts child find, evaluations and assessments, and transition planning, and provides service coordination and early intervention services based on Part C standards. Jointly training agency staff, implementing a monitoring system and identifying noncompliance issues and developing appropriate corrective action steps are all necessary to address compliance issues.

A second barrier is the need for DHEC to integrate and verify its new online web-based data system, which is a critical component of its monitoring system. DHEC officials testified that ensuring complete and accurate real-time data reporting that is necessary for program decision-making and accountability will take time. Securing baseline data under the new system is critical to DHEC's plan to identifying and addressing the root causes of the areas of noncompliance identified by OSEP. At the time of OSEP's monitoring visit, no information was collected by DHEC regarding private contractors who conducted evaluations and assessments and who provided early intervention services. DHEC intends for the new data

system to capture this information as well as information about the number of infants and toddlers on waiting lists for evaluations, early intervention services, and transition planning. Another goal of DHEC for its data system is to better track (with parent consent when needed) information about children who transition from Part C to Part B of the IDEA. Verifying the new data system will take DHEC more than one year and effectively incorporating the data system into its new monitoring system to verify both noncompliance areas and corrective action results will take DHEC longer.

A third major barrier that affects DHEC's ability to comply with Part C is a lack of enough qualified personnel to conduct evaluations and assessments and provide early intervention services. DHEC testimony cited personnel recruitment and development issues as among the top three challenges for its program. DHEC cannot, acting on its own, rapidly resolve this personnel shortage. DHEC is unable to find providers who are willing to travel to some of South Carolina's more rural areas to provide services in the infant or toddler's home. South Carolina also is not competitive with its neighboring states in the remuneration it offers providers. In some professions, South Carolina is challenged to find qualified personnel and DHEC may need to develop long-term strategies including working with its higher education institutions to ensure that personnel are trained. Removing all these barriers to obtaining needed personnel will require a long-term and systematic effort on DHEC's part that will involve working with other organizations in South Carolina to review existing policies and practices so that effective strategies for training, recruiting and retaining qualified personnel for early intervention services can be implemented.

3. Testimony From Other SC Agency Representatives, Providers and Parents All Confirms DHEC Cannot Immediately Come Into Compliance

Testimony from other individuals also confirmed that DHEC cannot come into full compliance with Part C immediately. Representatives from other South Carolina agencies that provide early intervention services, parents and individual providers of Part C services all testified that DHEC will need additional time to achieve full compliance.

At least three witnesses at the hearing (from other South Carolina agencies) confirmed that DHEC needs more time to ensure interagency coordination

among the six agencies that are part of the early intervention system in South Carolina. Susan Durrant, Director in the SC Department of Education (Division of Exceptional Children) cited the need for interagency coordination in the following areas in particular between the SC Department of Education and DHEC: (1) Making policies and procedures "congruent"; (2) joint collaboration on child find; and (3) developing "seamless services" particularly as children transition from Part C to Part B. A representative of the Department of Disabilities Special Needs, who is a parent, testified about the need for her agency's joint collaboration on training with DHEC and the monitoring standards.

A representative of the School for the Deaf and Blind identified one challenge unique to South Carolina, namely the ability to find available private contractors to address the needs of eligible infants and toddlers with disabilities who live in rural areas, since many providers are unwilling to travel to rural areas and remuneration for providers in these areas is not competitive. She stressed that coordination between BabyNet and the School for the Deaf and Blind must be on all issues (from general supervision to child find to evaluations to delivery of services and transition) since the School for the Deaf and Blind conducts all aspects of Part C (from evaluating infants and toddlers with disabilities and providing services to transition) and receives funding and training from DHEC and shares other resources with it. She noted that a key coordination challenge will be the use of both agencies' quality assurance staff to ensure that monitoring for compliance with Federal Part C requirements is conducted appropriately, using the correct standards, trained staff, with follow-up if noncompliance is identified.

Other witnesses, including parents and providers, confirmed that DHEC continues to face long-term challenges in complying with Part C, including availability of qualified personnel to provide evaluations and assessments and early intervention services. Some parents who submitted testimony indicated they were frustrated with waiting lists for services, including speech and other therapy services, and noted that some services were not even available or offered. One parent of a recently diagnosed child with autism indicated there were waiting lists and that there was a problem with service providers being available for services such that he was forced to pay for private services himself. Another parent

noted that child find in the Catawba Nation was a challenge for DHEC and ongoing transition training needs were necessary. Another parent noted that "many systemic changes need to take place" and that transition for children from Part C is an issue. Parents in oral and written testimony stated that the availability of services and waiting lists continue to be problems (Hearing #7, #13). Michael Jameson, Vice-Chair of the State Interagency Coordinating Council (SICC) and a parent, testified that DHEC needed more time due to its need to develop a monitoring system that monitored all six agencies that provide Part C services and the numerous private contractors.

Providers, including speech language pathologists, occupational therapists and physical therapists, also submitted testimony noting that timely provision of services was a problem due to "limited availability of services, especially in the home environment." They noted that although BabyNet is in transition, the verification and integration of a new web-based data system and recruitment of short-term and long-term qualified personnel to conduct evaluations and provide early intervention services were not quick fixes and would require more than one year, perhaps as many as three years. Providers stated that some of the changes made (development of a new policy and procedure manual, new IFSP form, and other training materials) as well as developing long-term personnel recruitment and retention policies and incentives would take at least two to three years to develop and fully implement. DHEC also acknowledged that monitoring to ensure that the new policies, forms and manuals were being effectively used would require the full three years.

The evidence gathered by the Department at the public hearings and through its monitoring of DHEC's early intervention program establishes an extensive failure to meet the requirements of Part C. These problems are not isolated examples of non-compliance that can be quickly or easily corrected, but the outgrowth of systemic failures, for which systemic change is needed. The Department, therefore, concludes that DHEC cannot come into immediate compliance with the requirements of Part C.

C. DHEC Can Come Into Full Compliance With Part C Within Three Years

The Department has concluded that DHEC can meet the terms and conditions of the attached Compliance Agreement and come into full

compliance with Part C within three years. The Compliance Agreement sets forth clear goals, outcomes and objectives, specific activities to reach those results, and timelines including target completion dates. Testimony at the hearing supports the conclusion that DHEC is committed to making the necessary changes to come into compliance with Part C. For example, the SICC Vice-Chair noted that DHEC had demonstrated its good faith and willingness to change by taking the few steps that were in its direct control immediately after OSEP's initial on-site monitoring visit. These steps included the development of brochures in English and Spanish and revision of the IFSP form. Providers also acknowledged that DHEC has demonstrated a commitment to change ("they have made many changes" (Cree M. Lause, PT); "it (DHEC) has been working steadily to correct the problems cited from OSEP's data collection visit (in February 2002)." (Mary Gene H. White, SLP)). To ensure that DHEC remedies its noncompliance as soon as possible, the Compliance Agreement sets forth realistic and specific timelines for accomplishing each objective. DHEC officials testified that it has already implemented the following actions to address OSEP's findings of noncompliance:

- Development of an intra- and interagency policy/procedure manual;
- Detailed contracts for private contractor providers;
- Restructuring training for all six agency personnel on Part C requirements and compliance issues;
- Development and dissemination of new public awareness materials in English and Spanish;
- Development of model IFSP form to include all federally required elements including present levels of functioning;
- Completion of IFSP form use training by all service coordinators;
- Automatic referrals by SSI to DHEC; and
- Development of interagency transition policies and conducting follow-up transition training.

The actions that remain are long-term strategies to address the three principal barriers to DHEC's successful implementation of Part C. Thus, the Compliance Agreement contains specific plans to develop effective interagency monitoring and cooperation mechanisms. It also requires completion of a verifiable online web-based data system that will be used and integrated by DHEC as it monitors specific BabyNet Coordination Team compliance to ensure that timely evaluations and

assessments, IFSP completion and provision of early intervention services and transition planning are occurring. Finally, it requires long-term personnel recruitment and development policies to be developed.

The Compliance Agreement also establishes realistic goals and systemic strategies—which will be monitored by the Department—for bringing DHEC into compliance with Part C. The Compliance Agreement addresses the five major areas of DHEC's non-compliance with Part C, namely: (1) General Supervision, (2) Child Find/Public Awareness, (3) Timely and Comprehensive Child Evaluation and Assessments, (4) Timely IFSP Development and Provision of Early Intervention Services, and (5) Transition. Under each of these Compliance Agreement areas, DHEC sets out objectives as well as specific steps that it will take to achieve its objectives and address the non-compliance areas that are at issue in OSEP's monitoring report. The Compliance Agreement also identifies the key parties (including DHEC, other State agencies and stakeholder groups including the SICC), who will take responsibility for carrying out each of the strategies. Thus, specific parties can be held accountable if an activity delineated in the Compliance Agreement is not properly implemented.

In addition to specifying overall compliance goals, a plan for meeting them, and the party responsible for implementing the specific actions steps, the Compliance Agreement also sets out interim objectives that DHEC must meet during the next three years in attaining compliance with Part C. DHEC is committed not only to being in full compliance with Part C within three years, but also has a plan to address each objective in as timely a manner as possible. The Compliance Agreement sets forth the data collection and reporting procedures that DHEC will follow. These provisions will enable the Department to determine whether or not DHEC is meeting each of its commitments under the Compliance Agreement. The Compliance Agreement, because of the obligations it imposes on DHEC, will provide the Department with the information and authority it needs to protect the Part C rights of South Carolina infants and toddlers with disabilities.

DHEC has developed a comprehensive plan to address the underlying causes of its failure to comply with Part C. For these reasons, the Department concludes that DHEC can meet all the terms and conditions of

the Compliance Agreement and come into full compliance with Part C no later than three years from the date of the Agreement.

IV. Conclusion

For the foregoing reasons, the Department finds that: (1) Full compliance by DHEC with the requirements of Part C is not feasible until a future date, and (2) DHEC can meet the terms and conditions of the attached Compliance Agreement and come into full compliance with the requirements of Part C within three years of the date of this decision. Therefore, the Department determines that it is appropriate for this agency to enter into a Compliance Agreement with DHEC. Under the terms of 20 U.S.C. 1234f, this Compliance Agreement becomes effective on the date of this decision.

Dated: September 9, 2003.

Roderick Paige,
Secretary, U.S. Department of Education.
Attachment: South Carolina Compliance Agreement

Appendix B—Text of the Binding Provisions of the Compliance Agreement; Compliance Agreement Under Part C of the Individuals with Disabilities Education Act, the Infants and Toddlers with Disabilities Program, Between the U.S. Department of Education and the South Carolina Department of Health and Environmental Control

I. Introduction

On January 6, 2003, pursuant to an on-site monitoring visit to South Carolina (SC) in February 2002 by the Office of Special Education Programs (OSEP) of the U.S. Department of Education (Department), OSEP issued a final monitoring report that documented non-compliance by the South Carolina Department of Health and Environmental Control (DHEC) with Part C of the Individuals with Disabilities Education Act (Part C of the IDEA). On May 1, 2003, pursuant to a DHEC request to enter into a compliance agreement, OSEP conducted a public hearing regarding DHEC's ability to comply with Part C. The hearing and testimony from representatives of other South Carolina agencies, Part C providers, parents and other individuals confirmed that, under 20 U.S.C. 1234c, full compliance with Part C by DHEC is not feasible until a future date, but that DHEC is able to come into compliance with Part C in no more than three years. Testimony at the hearing and written testimony submitted further supported the development of a compliance

agreement in order to bring DHEC into compliance with Part C as soon as feasible and to allow continuation of Part C funds to South Carolina during this process. As indicated in the Secretary's Written Findings and Decision, the Department agrees that a compliance agreement is appropriate to address DHEC's noncompliance with Part C.

II. Areas of Identified Non-Compliance

Pursuant to this Compliance Agreement under 20 U.S.C. 1234f, DHEC must be in full compliance with the requirements of Part C no later than three years from the effective date of this Agreement, which is the date the Secretary's Written Findings of Fact and Decision are issued and when the Compliance Agreement is signed by both DHEC and the Department. Specifically, DHEC⁴ must ensure and document that no later than three years from the effective date of this Agreement, the following compliance goals are achieved within each of the following five major areas:

1. *General Supervision:* DHEC must meet its general supervision responsibilities and monitor for compliance with all requirements of Part C, including employing appropriate methods of administering the Part C program, including monitoring State agencies, institutions, organizations and private providers that are part of the Part C system, and enforcing obligations against and providing training and technical assistance to all such entities and individuals, when identified as part of a required improvement strategy.

2. *Child Find/Public Awareness:* DHEC must ensure that a coordinated child find system results in the identification of all eligible infants and toddlers with disabilities and that public awareness materials about the infants and toddlers with disabilities program are made available to the public, including rural, minority and underrepresented populations.

3. *Timely/Comprehensive Evaluations:* DHEC must ensure that all infants and toddlers referred to Part C receive timely and comprehensive evaluations in all five developmental areas, such that evaluations and assessments are completed within 45 days of referral to enable the initial Individualized Family Service Plan (IFSP) team meeting to be convened in that time period. DHEC must ensure there are adequate personnel in all

geographic areas to enable evaluations and assessments to be completed within the 45-day timeline and to eliminate waiting lists for evaluations and assessments.

4. *Identification and Timely Provision of All Early Intervention Services on IFSPs:* DHEC must ensure that all early intervention services needed by an eligible infant or toddler with a disability and the child's family are identified on the IFSP, including any family training, counseling and home visits. DHEC must ensure that all early intervention services identified by the IFSP team are provided in a timely manner to infants and toddlers with disabilities and their families. DHEC must ensure that the present level of functioning for each developmental area is identified on each IFSP.

5. *Transition Planning:* DHEC must conduct timely and content-appropriate transition plans and transition meetings for children who are transitioning from Part C to Part B of IDEA. For families transitioning to other programs, DHEC will develop content-appropriate transition plans and make reasonable efforts to convene a transition conference.

During the period that this Compliance Agreement is in effect, DHEC is eligible to receive Part C funds if it complies with the terms and conditions of this Agreement and all other provisions of Part C not addressed by this Agreement. Specifically, the Compliance Agreement sets forth goals and timetables that are necessary for DHEC to come into compliance with its Part C obligations. In addition, DHEC is required to submit documentation concerning its compliance with these goals and timetables. Included in the Compliance Agreement are five individual Work Plans which address specific topic areas of DHEC's non-compliance with Part C, and include outcomes, goals, objectives, activities to achieve results, verification, and target completion dates for DHEC's progress toward full compliance over the three-year Agreement. Since some of the compliance goal areas are interrelated, some activities and outcomes are repeated in more than one area. With prior written approval from OSEP, amendments to the Activities to Reach Results column listed in the tables may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes in the activities or any other amendments to

the Agreement shall be submitted in writing to OSEP.

III. Current Status, Goals and Measurable Outcomes and Verification for Five Areas of Non-Compliance

1. Area 1: General Supervision

Current Status: The Department's January 6, 2003 monitoring report found that: DHEC did not have a method to identify local noncompliance with Part C requirements, that Part C private providers were not following Part C regulations (including provisions that require early intervention services to be provided in the natural environment), DHEC did not monitor other agencies, institutions, organizations and providers used by the State to carry out Part C, DHEC did not enforce all obligations under Part C and DHEC had not adopted and used proper methods of administering each program, including providing technical assistance and training. DHEC's self-assessment data and BabyTrac Data support these findings.

Outcome: DHEC will ensure that all eligible infants and toddlers and their families have available appropriate early intervention services in accordance with Part C requirements through the development and implementation of an interagency comprehensive monitoring and general supervision system that includes a continuous improvement and focused monitoring process.

Measurable Goals and Verification: DHEC has identified the following goals and will either provide or make available verification to the Department for each goal.

Goal 1: Monitoring policies, procedures, and instruments will identify compliance deficiencies and ensure these are corrected in a timely manner.

Goal 2: Ongoing technical assistance and training to public and private providers, administrators, paraprofessionals, and special instructors will be provided to ensure compliant provision of services to infants and toddlers with disabilities and their families.

Goal 3: Appropriate sanctions will be used when necessary to enforce correction of deficiencies.

Verification: In its quarterly report to OSEP, DHEC shall provide summaries of the status of each of the above goals (consistent with the General Supervision Compliance Work Plan) and shall provide a narrative of how DHEC has analyzed and responded to the data provided by each BNCT. DHEC shall also provide in its quarterly reports, summaries of progress in

⁴ DHEC's Part C program is called the BabyNet program. The Compliance Agreement uses the terms BabyNet and DHEC interchangeably. The monitoring system designed by DHEC includes the use of BabyNet Coordination Teams or BNCTs.

meeting the target completion dates for each of the activities identified under general supervision, including (1) the identification and correction of any barriers, legislative or other, to ensure compliance with Part C, (2) an interagency memorandum of agreement that focuses on monitoring of all State agencies that provide Part C services, and (3) procedures for enforcing or correcting identified non-compliance, including use of appropriate sanctions. In addition, DHEC will submit the verification data and/or documentation listed in the attached General Supervision Compliance Work Plan on the dates the quarterly reports are due to OSEP.

2. Area 2: Child Find/Public Awareness

Current Status: OSEP's monitoring report reflected that: public awareness activities were not effective in informing parents of infants and toddlers with disabilities of underrepresented populations; there was a lack of coordination for child find and public awareness among relevant agencies (including child care, migrant Head Start, SSI); physician referrals were problematic including "wait and see" attitude and misperception that BabyNet addresses child health instead of development; there was a lack of public awareness materials in daycare centers, pediatric offices or developmental centers; and public awareness materials were not distributed or available in Spanish. DHEC's self-assessment data and BabyTrac Data support these findings.

Outcome: DHEC will ensure the development and implementation of a comprehensive, coordinated public awareness/child find system that results in the identification, evaluation, and assessment of all eligible infants and toddlers.

Measurable Goals and Verification: DHEC has identified the following goals and will either provide or make available verification to the Department for each goal.

Goal 1: DHEC shall ensure that the child find system is coordinated with all major efforts to locate and identify eligible children conducted by other State agencies.

Goal 2: DHEC will ensure that the child find system is coordinated with all other major efforts to locate and identify children conducted by other State agencies, programs, and organizations, and DHEC shall conduct outreach to these entities including private entities such as pediatric practices and day care centers.

Goal 3: Families will have access to public awareness materials (to ensure

identification of all eligible infants and toddlers and to enable access to culturally competent services) that inform and promote referral of eligible infants and toddlers to the Part C system.

Verification: Within the first week of each month and each month thereafter, each BNCT will prepare a report regarding the Child Find verification data listed in the Child Find Compliance Work Plan. In its quarterly report to OSEP, DHEC shall provide monthly data summaries, by each BNCT, and shall provide a narrative of how DHEC has analyzed and responded to the data provided by each BNCT.

3. Area 3: Timely/Comprehensive Evaluations

Current Status: OSEP's monitoring report reflected that: Evaluations and assessments were not completed in all five developmental areas; content on initial IFSPs was limited to future referrals for further evaluation and assessment; infants and toddlers were not evaluated in the areas of vision and hearing; evaluations and assessments were often not completed within the 45-day timeline; there are waiting lists for evaluations and assessments; and shortages of providers in some areas impacted completion of evaluations and assessments in a timely manner.

Outcome: DHEC will ensure that infants and toddlers receive timely comprehensive evaluations in all five developmental areas to enable the initial IFSP team meeting to be convened within 45 calendar days from referral.

Measurable Goals and Verification: DHEC has identified the following goals and will either provide or make available verification to the Department for each goal.

Goal 1: DHEC will ensure that evaluations and assessments are completed in all five developmental areas—cognitive development, physical development, including vision and hearing, communication development, social and emotional development and adaptive development.

Goal 2: DHEC will ensure that infants and toddlers receive timely evaluations and assessments in order to enable the initial IFSP team meeting to be convened within 45 calendar days from referral and eliminate waiting lists for evaluations and assessments.

Verification: Each BNCT will demonstrate continuous improvement in ensuring all infants and toddlers receive timely evaluations and assessments, including vision and hearing within the 45-day timeline. Quarterly benchmarks will be established for each BNCT and

incorporated in the BNCT Compliance Plan. Benchmarks will take the BNCT from their specific baseline in this area and ensure continuous substantial progress until all infants and toddlers with disabilities receive timely evaluations and assessments in all developmental areas, including vision and hearing, within the 45-day timeline. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly with individual BNCTs, as necessary. In its quarterly report to OSEP, DHEC shall provide monthly summaries, by each BNCT and shall provide a narrative of how DHEC has analyzed and responded to the data provided by each BNCT.

4. Area 4: Proper Development of, and Timely Provision of Early Intervention Services on, Individualized Family Service Plan (IFSP)

Current Status: OSEP's monitoring report reflected that: Present levels of functioning were written in some developmental areas, but were frequently omitted for the physical and communication developmental areas; all needed services, including family support services, were not listed on the IFSP; providers reported that it was difficult to obtain counseling services and parenting classes; the provision of early intervention services was delayed; for some infants and toddlers with disabilities and families, EI services were not provided; and waiting lists existed for early intervention services.

Outcome: DHEC will ensure the development and implementation of complete IFSPs for all eligible infants and toddlers with disabilities and their families and ensure that all infants and toddlers with disabilities and their families are provided early intervention services in a timely manner.

Measurable Goals and Verification: DHEC has identified the following goals and will either provide or make available verification to the Department for each goal.

Goal 1: All IFSPs will contain the required components in accordance with Part C.

Goal 2: All infants and toddlers with disabilities and their families will receive all early intervention services identified on their IFSP in a timely manner and waiting lists for all early intervention services will be eliminated.

Verification: Each BNCT will demonstrate continuous improvement in eliminating waiting lists for receipt of early intervention services on the IFSP each quarter. Quarterly benchmarks will be established for each BNCT and incorporated in the BNCT's Compliance Plan. Benchmarks will take the BNCT

from their specific baseline in this area and ensure continuous substantial progress until there are no infants and toddlers on waiting lists for evaluation and assessment. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly with individual BNCTs, as necessary. In its quarterly report to OSEP, DHEC shall provide monthly summaries by each BNCT and shall provide a narrative of how DHEC has analyzed and responded to the data provided by each BNCT.

5. Area 5: Timely Transition Planning and Conferences

Current Status: OSEP's monitoring report reflected that: School districts were not being notified of BabyNet eligible children approaching age three; transition meetings were not being held in accordance with Part C requirements; and transition plans were not being developed and implemented in accordance with Part C requirements.

Outcome: DHEC will ensure that timely transition notices are provided and transition meetings are held and that transition plans are developed to assist all eligible children and their families as they exit Part C.

Measurable Goals and Verification: DHEC has identified the following goals and will either provide or make available verification to the Department for each goal.

Goal 1: DHEC will ensure that the local education agency is notified of

children who are approaching the age for transition at least 90 days prior to the child turning three in accordance with Part C.

Goal 2: DHEC will ensure that a transition meeting is held in accordance with the requirements of Part C of IDEA.

Goal 3: DHEC will ensure that transition plans are developed and implemented in accordance with the requirements under Part C.

Verification: Each BNCT will demonstrate continuous improvement in reducing the number of eligible children who have not received required Part C Transition planning in a timely manner when exiting BabyNet. Quarterly benchmarks will be established for each BNCT and incorporated in the BNCT's Compliance Plan. Benchmarks will take the BNCT from their specific baseline in this area and ensure continuous substantial progress until all eligible children receive required Part C Transition planning in a timely manner when exiting BabyNet. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly with individual BNCTs, as necessary. In its quarterly report to OSEP, DHEC shall provide monthly summaries, by each BNCT and shall provide a narrative of how DHEC has analyzed and responded to the data provided by each BNCT.

Other Conditions: DHEC agrees that its continued eligibility to receive Part C funds is predicated upon compliance

with statutory and regulatory requirements of that program, which includes requirements not addressed specifically by this Agreement. Any failure by DHEC to comply with the goals, objectives, timetables, verification or other provisions of the Compliance Agreement, including the reporting requirements, will authorize the Department to consider the agreement no longer in effect. If DHEC fails to comply with the terms of the Agreement, the Department may take any actions authorized under the General Education Provisions Act (GEPA at 20 U.S.C. 1200 *et seq.*) and the IDEA at 20 U.S.C. 1401 *et seq.* and 1443–1445. Such actions may include, under 20 U.S.C. 1234c, the withholding of Part C funds from the State (consistent with the procedures set forth in the IDEA or at 20 U.S.C. 1234d).

Signed for the South Carolina Department of Health and Environmental Control:

Dated: August 20, 2003.

C. Earl Hunter,
Commissioner.

Signed for the U.S. Department of Education:

Dated: September 9, 2003.

Roderick Paige,
Secretary.

Date this Compliance Agreement Becomes Effective: September 9, 2003. (Date on which Written Findings of Fact are Issued).

BILLING CODE 4000-01-P

**South Carolina Department of Health and Environmental Control
Compliance Agreement
AREA 1: GENERAL SUPERVISION COMPLIANCE WORK PLAN**

AREA OF NON-COMPLIANCE: The State Lead Agency has failed to employ proper methods of administering the Part C Program, including monitoring state level agencies, institutions and organizations used by the state to provide Part C services, enforcing obligations and providing training and technical assistance.

BASELINE DATA:

1. CIMP Self-Assessment Report – December 2000:

- a. DHEC did not have a monitoring system to ensure general administration and supervision of programs and activities for IDEA requirements under Part C; and
- b. DHEC did not have monitoring policies, procedures and staff necessary to ensure compliance with federal and state laws, regulations, and policies and procedures.

2. OSEP Monitoring Report – Onsite Visit February 2002:

- a. DHEC had not identified any local noncompliance issues as a result of quarterly meetings; the quarterly meetings and reports did not afford DHEC an effective method for identifying and correcting noncompliance;
- b. Current activities were not sufficient to monitor for most of the requirements of Part C;
- c. Providers were not following Part C regulations including natural environments, etc;
- d. Services were not always provided in environments listed on IFSP;
- e. DHEC did not exercise its general supervisory authority to ensure compliance with Part C; including a lack of an effective method of supervision for private providers enabling the state to correct deficiencies; and
- f. DHEC had not implemented a monitoring system that was effective in identifying noncompliance of agencies, institutions, and organizations used by the state to carry out Part C; had not enforced all the obligations imposed under Part C of IDEA; and had not adopted and used proper methods of administering each program, including providing technical assistance and training.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

OUTCOME: The Department of Health and Environmental Control will ensure that all eligible infants and toddlers and their families have available appropriate early intervention services in accordance with Part C requirements through the development and implementation of an interagency comprehensive monitoring and general supervision system that includes a continuous improvement and focused monitoring process.

Goal 1: Monitoring policies, procedures, and instruments will identify compliance deficiencies and ensure these are corrected in a timely manner.

Goal 2: Ongoing technical assistance and training to public and private providers, administrators, paraprofessionals, and special instructors will be provided to ensure compliant provision of services to infants and toddlers with disabilities and their families.

Goal 3: Appropriate sanctions will be used when necessary to enforce correction of deficiencies.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

With prior written approval from OSEP, adjustments to the Activities to Reach Results column listed in this table may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes or amendments will be submitted to OSEP in writing.

Activities to Reach Results	Verification	Target Completion Date	Date Completed
Objective GS-1: Revise formal policy structure upon which the Part C system in South Carolina functions.			
GS-1A. Identify and correct any barriers, legislative or other, to ensure compliance with federal Part C statute and regulations. (Findings: 2e, 2f)			
GS-1A.1 Draft analysis of barriers, legislative or other, to ensure compliance with federal Part C statute and regulations.	Submit analysis to OSEP for comment/review along with proposals for removing the barriers to compliance with Part C.	June 30, 2004	
GS-1A.2 Prepare final language of any proposal, including as appropriate, legislative, regulatory or policy changes needed to comply with Part C.	Submit to OSEP finalized language of proposal.	January 31, 2005 and June 30, 2005 for any legislative changes needed.	
GS-1B. Interagency Memorandum of Agreement implemented that reflects Part C requirements, and focuses on monitoring and appropriate sanctions for noncompliance. (Findings: 2b, 2c, 2e, 2f)			

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
GS-1B.1 Interagency workgroup composed of agency representatives to meet monthly to draft revised Memorandum of Agreement.	Submit to OSEP status of MOA in progress report.	September 30, 2003 and quarterly until MOA complete.	
GS-1B.2 Submit draft of revised MOA to OSEP for review/comments.	Draft of proposed MOA submitted to OSEP for review. Signed final Interagency Memorandum of Agreement is submitted to OSEP.	January 31, 2004 March 31, 2004	
Objective GS-2: Ensure DHEC's ability to enforce Part C compliance when required through the use of appropriate sanctions.			
GS-2A. Incorporation of interagency enforcement/accountability process into the Interagency Memorandum of Agreement. A list of appropriate sanctions and the process under which they will be used will be developed. (Findings: 2e, 2f)	Documentation of interagency sanctions being incorporated into Interagency Memorandum of Agreement through the process listed in GS1B. MOA draft submitted to OSEP for review will contain list of sanctions and procedures. MOA implemented that includes sanctions for noncompliance.	January 31, 2004 March 31, 2004	
GS-2B. Lead Agency develops a process for the use of appropriate sanctions that will ensure BN Contracted Provider compliance with Part C regulations. (Findings: 2c, 2e, 2f)	List of, and guidelines or process governing, draft appropriate sanctions submitted to OSEP with quarterly report. Revised contracts for private contractors and sanctions policy also submitted to OSEP. Sanctions implemented as part of BN contracts with private providers. Documentation to OSEP of approved sanction process being distributed to all BabyNet Contracted providers.	November 30, 2003 December 31, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
GS-2C. Process for use of appropriate sanctions for BN Service Coordinators, Special Instructors, and their supervisors will be incorporated into the Infant-Toddler Credentialing process to ensure compliance with Part C regulations. (Findings: 2c, 2e, 2f)	Draft sanctions in BN provider credential process (including identifying criteria for when, how and what BN providers are notified about that they may not receive a renewal of their BN provider credential) submitted to State Interagency Coordinating Council for review and comment. Adoption of Infant-Toddler Credential sanctions process by SC-ICC and submit to OSEP final approved process.	November 30, 2003 December 31, 2003	
Objective GS-3: Ensure availability of accurate and reliable data used for decision-making and accountability.			
GS-3A. Identify data elements necessary to ensure Part C accountability, the sources of the data, and how the data can be best be obtained and used to inform data gathering practices. (Finding: 2f)	Documentation of planned revisions to the BabyTrac-II system is available for review.	September 30, 2003	
GS-3B. Design and implement revisions to BabyTrac-II, including the addition of elements and reports necessary for compliance and the method(s) DHEC will use to conduct data verification, which shall be approved by OSEP. (Finding: 2f)	Documentation of revisions to BabyTrac-II available for review. Provide OSEP description of DHEC's data verification process as implemented (including any manuals)	November 30, 2003	
GS-3C. Ensure availability of accurate and timely data for the annual December 1 federal data report. (Finding: 2f)	December 1 data available for submission to OSEP on due dates.	January 1, 2004	
Objective GS-4: Design and implement a comprehensive interagency monitoring system to ensure system wide accountability for Part C requirements.			
GS-4A. Review and determine applicable characteristics and elements of effective monitoring as provided by OSEP. (Findings: 2a, 2b, 2f)	Submit summary in progress report to OSEP.	November 30, 2003	

The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.

Activities to Reach Results	Verification	Target Completion Date	Date Completed
GS-4B. With technical assistance from NCSEAM and MSRRRC, convene stakeholders including state agency representatives to develop detailed monitoring infrastructure and TA plan that includes the following elements- focused monitoring, onsite visits, desk audit, data analysis and verification, tools, timelines, and a basic structure that yields changed behaviors and quality practices that are compliant. (Finding: 2f)	Meeting agendas, minutes, and attendance is available for review.	November 30, 2003	
GS-4B.1 Produce written policies and procedures for implementation of monitoring system.	Written monitoring manual, policies, procedures, instruments, including who will conduct the monitoring, is submitted to OSEP.	March 31, 2004	
GS-4B.2 Establish and train interagency onsite monitoring teams.	Documentation of team membership and completed training is available for review.	May 31, 2004	
GS-4B.3 Establish schedule and conduct first focused onsite monitoring visits.	Selection of monitoring sites and schedule of visits is submitted to OSEP.	July 31, 2004	
GS-4B.4 Complete onsite monitoring reports and incorporate findings into BabyNet Coordination Compliance Plans. (Findings: 2a, 2b, 2f)	Monitoring reports are available for review on an ongoing basis. BabyNet Coordination Team Compliance Plans submitted by DHEC to OSEP in quarterly reports. Compliance plans shall reflect and address findings from DHEC's monitoring reports.	First report by September 30, 2004 and quarterly thereafter.	
Objective GS-5: Establish statewide system to ensure accountability and compliance with Part C requirements including but not limited to child find, transition, child evaluation, IFSP development, provision of timely services, and ongoing system monitoring. Note: BabyNet Coordination Teams serve as the basis of accountability to address areas of noncompliance (as included in the Compliance Agreement) through the ongoing analysis of data, improvement planning, monitoring, and verification of change. These teams are comprised of local BabyNet participating agency representatives, providers, parents, school districts, etc.			

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
 South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
GS-5A. BabyNet Coordination Teams will be established statewide and begin monthly meetings to address the initiation of immediate improvement strategies. (Findings: 2e, 2f)	Written minutes from monthly BNCT meetings available for review.	First minutes available September 30, 2003 and monthly thereafter.	
GS-5A.1 Prepare baseline data tables for each of the BN Coordination Teams in areas of noncompliance. BNCTs will be ranked according to areas of noncompliance. (Findings: 2a, 2b, 2e, 2f) Continue to prepare data tables for the state and for each of the BN Coordination Teams on issues on noncompliance and targeted areas needing improvement.	Provide OSEP baseline data for each of BNCTs related to child find, transition, child evaluation, IFSP development and the provision of timely services. Data analysis submitted and documented in quarterly reports to OSEP.	October 31, 2003 November 30, 2003 and quarterly thereafter.	
GS-5A.2 Design the Compliance Plan format BN Coordination Teams will use to develop and implement their Compliance Plans related to areas of noncompliance. Each Compliance Plan will include a Technical Assistance component that will identify specific supports needed to accomplish plan objectives in each area of noncompliance.	BNCT Compliance Plan format submitted to OSEP and disseminated to all BNCTs.	November 30, 2003	
GS-5A.3 Select 6 initial BN Coordination Teams for Target Group 1 that are most in need of improvement	Notification letters to the BN Coordination Teams selected. Copies of letters submitted to OSEP with quarterly report.	November 30, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
based upon ranking in 4A.1. GS-5A.4 Target Group 1, comprised of 6 BN Coordination Teams, develop Compliance Plans to address identified areas of noncompliance.	BN Coordination Team Compliance Plans identifying areas of noncompliance and corrective actions with timelines are submitted to OSEP. Status of Compliance Plan progress will be reported to OSEP quarterly through the BNCT meeting minutes and ongoing data analysis reports. Review data in Target Group 1 (6 teams) to determine if noncompliance areas are corrected and if full compliance has been achieved in these areas. Provide OSEP analysis of data for each BNCT. Full compliance throughout state verified through data in these 6 BNCT areas.	January 31, 2004 February 29, 2004 and quarterly thereafter. June 30, 2005 May 31, 2006	
GS-5A.5 Select 6 additional BN Coordination Teams for targeting that are most in need of improvement based upon ranking in 4A.1.	Notification letters to the BN Coordination Teams selected. Copies of letters submitted to OSEP with quarterly report.	January 31, 2004	
GS-5A.6 Target Group 2, comprised of 6 BN Coordination Teams, develop Compliance Plans to address identified areas of noncompliance.	Targeted BN Coordination Teams Compliance Plans are submitted to OSEP. Summary analysis of Compliance Plan progress is reported to OSEP quarterly and ongoing for each BNCT's cycle through the monitoring process. Review data in Target Group 2 (6 teams) to determine if noncompliance areas are corrected	June 30, 2004 July 31, 2004 and quarterly thereafter for remainder of Compliance Agreement. July 31, 2005	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement - General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
	and if full compliance has been achieved in these areas. Provide OSEP analysis of data for each BNCT.		
GS-5A.7 Continue to provide ongoing technical assistance and supervision to ensure BabyNet Coordination Team Compliance Plans are meeting their established benchmarks for compliance. If not meeting benchmarks for improvement, a formal review will be conducted by BabyNet Central Office to determine reasons for lack of progress and immediate remedies will be undertaken. (Finding: 2f)	Full compliance throughout state verified through data in these 6 BNCT areas. As documented in quarterly reports to OSEP.	June 30, 2006 September 30, 2003 and quarterly thereafter.	
GS-5B. Select BabyNet Compliance Agreement Managers through the local DHEC Health Districts that will oversee BNCT Compliance Agreements. Staff in these positions will be responsible for monitoring, facilitating local BN Coordination Teams, evaluating IFSP meetings, supervision for programmatic compliance, feedback regarding district functioning, and working with local providers on program improvements. (Finding: 2f)	BN Compliance Agreement Managers roles and responsibilities submitted to OSEP.	September 30, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
Objective GS6: Ongoing technical assistance and training to public and private providers, administrators, paraprofessionals, and special instructors will be provided to assure compliant provision of services to infants and toddlers with disabilities and their families.			
GS-6A. Continue development of training materials and technical assistance mechanisms (on in-service coordination; child find and referral; family-centered services; procedural safeguards; screening, evaluation and assessment; family-directed assessment; IFSP development; delivery of services in natural environments; special instruction strategies; parent training strategies; transition, and monitoring) to provide Training/Technical Assistance target groups with sufficient knowledge and guidance to engage in compliance and quality service delivery. (Finding: 2f)	Training curricula are available for review. Submit to OSEP in quarterly report narrative describing what and by when training and technical activities have occurred.	September 30, 2003 and quarterly thereafter.	
GS-6B. Provide curricula in a variety of media such as on-site training outlines, online courses, written and CD-ROM self-paced instructional modules. (Finding: 2f)	Submit to OSEP in quarterly report narrative describing what and by when training and technical activities have occurred.	August 31, 2004	
GS-6C. Develop and publish schedule of training institutes; publish availability of materials in other media. (Finding: 2f)	Schedules and training materials available for review. Submit to OSEP in quarterly report narrative describing what and by when training and technical activities have occurred.	September 30, 2003 and quarterly thereafter.	
GS-6D. Conduct training institutes on a regular and ongoing basis for current and new personnel across collaborating agencies, institutions, organizations, and providers. (Finding: 2f)	Schedules and documentation of completed trainings available for review. Submit to OSEP in quarterly report narrative describing what and by when training and technical activities have occurred.	September 30, 2003 and quarterly thereafter.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

Activities to Reach Results	Verification	Target Completion Date	Date Completed
GS-6E. Develop and implement evaluation of efficacy and quality of technical assistance and training. (Finding: 2f)	Evaluation methods and instruments available for review. Submit to OSEP narrative describing the evaluation methods that have been developed and the dates.	October 31, 2003 and annually thereafter.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – General Supervision

**South Carolina Department of Health and Environmental Control
Compliance Agreement
AREA 2: CHILD FIND/PUBLIC AWARENESS COMPLIANCE WORK PLAN**

AREA OF NON-COMPLIANCE: DHEC does not ensure that there is a coordinated child find system and that public awareness materials are made available to the public.

BASELINE DATA:

1. CIMP Self-Assessment Report – December 2000:

- a. Rates of referrals were increasing over time for Caucasian infants and toddlers with disabilities and decreasing for minority infants and toddlers with disabilities; and
- b. Providers reported a lack of training to inform referring and collaborating agencies about early intervention services.

2. OSEP Monitoring Report – Onsite Visit February 2002:

- a. Public awareness activities were not effective in informing parents of infants and toddlers with disabilities of underrepresented populations;
- b. There was a lack of coordination for child find and public awareness between agencies (including child care, migrant Head Start, SSI);
- c. Physician referrals were problematic including a "wait and see" attitude and a misperception that BabyNet involves health instead of development;
- d. There was a lack of public awareness materials in daycare centers, pediatric offices or developmental centers; and
- e. Public awareness materials were not distributed or available in Spanish.

3. BabyTrac Data Reports – June 2003:

- a. BabyTrac data indicates expected number of infants and toddlers are not being identified.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

OUTCOME: DHEC will ensure the development and implementation of a comprehensive, coordinated public awareness/child find system that results in the identification, evaluation, and assessment of all eligible infants and toddlers.

Goal 1: DHEC shall ensure that the child find system is coordinated with all major efforts to locate and identify eligible children conducted by other State agencies.

Goal 2: DHEC will ensure that the child find system is coordinated with all other major efforts to locate and identify children conducted by other State agencies, programs, and organizations, and DHEC shall conduct outreach to these entities including private entities such as pediatric practices and day care centers.

Goal 3: Families will have access to public awareness materials (to ensure identification of all eligible infants and toddlers and to enable access to culturally competent services) that inform and promote referral of eligible infants and toddlers to the Part C system.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

With prior written approval from OSEP, adjustments to the Activities to Reach Results column listed in this table may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes or amendments will be submitted to OSEP in writing.

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
Objective CF-1: Develop and implement a set of coordinated statewide strategies for public awareness/child find (with emphasis on underrepresentation in BabyNet) with agencies/programs within and outside of DHEC.			
CF-1A. Review statewide information and establish baseline data for underrepresented populations. (Findings: 2a)	Report baseline data to OSEP regarding: • Number of infants and toddlers referred by underrepresented populations; • Number of infants and toddlers eligible by underrepresented populations (including rural, Catawba Nation, and other populations) and income (voluntary); • Number of infants and toddlers referred by private physicians, state agencies, hospitals, clinics, and other referral sources.	September 30, 2003 and quarterly thereafter.	
CF-1B Develop a list of DHEC programs that have a history of successful outreach to underrepresented populations and may potentially assist in public awareness/child find efforts (including Medical Home Project). (Findings: 2a, 2b)	The list of identified programs will be available for review.	September 30, 2003	
CF-1B.1 Convene a workgroup within DHEC to address child find/public awareness, especially related to underrepresented populations	Agenda, meeting minutes, and attendance available for review.	January 31, 2004	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
including individuals of lower socio-economic status.			
CF-1C. Convene a taskforce of the South Carolina Interagency Coordinating Council (SC-ICC) to address statewide child find/public awareness issues, especially related to underrepresented populations. (Findings: 2a, 2b)	Agenda, meeting minutes, and attendance from first meeting available for review.	February 29, 2004	
CF-1C.1 Develop statewide plan with strategies and timelines to address child find/public awareness issues, especially related to underrepresented populations.	Plan of strategies with timelines will be submitted to OSEP.	April 30, 2004	
CF-1C.2 Implement child find/public awareness improvement strategies according to timelines established by workgroup.	As documented in quarterly reports to OSEP.	December 31, 2004	
Objective CF-2: Reach out to private entities, particularly physicians, to facilitate their timely referral of potentially eligible infants and toddlers and increase their knowledge of BabyNet.			
CF-2A. Develop a target list of private agencies/organizations (e.g. pediatricians, OB/GYN, therapy groups, midwife association, etc.) that could potentially be child find resources with particular emphasis on rural areas. (Findings: 2a, 2b, 2c.)	List available for review and disseminate via website.	October 31, 2003	
CF-2A.1 Seek SC-ICC input on which potential groups to target first for child find outreach. Physician organizations must be a priority.	Revised list is available for review	November 30, 2003	
CF-2A.2 Have individual/group meetings, at least one per	Lists of individual/group meetings held and joint child find strategies developed shall be available	November 30, 2003 and quarterly	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
month, with targeted groups to facilitate collaboration to develop joint strategies for child find and increasing public awareness.	for review.	thereafter.	
CF-2A.3 Implement strategies developed in CF-2A.2 as scheduled.	Progress toward the joint strategies mentioned in CF-2A.2 (e.g., numbers of public awareness materials disseminated by date/location, dates and agendas of meetings, number of individuals attending) will be documented in quarterly reports to OSEP.	November 30, 2003 and quarterly thereafter.	
Objective CF-3: Develop and implement coordination activities related to infants and toddlers with disabilities with the Catawba Nation.			
CF-3A. Conduct a series of planning meetings between BabyNet and members of the Catawba Nation. (Findings: 2a, 2b)	Agenda and minutes from the meeting are available for review.	First meeting by January 31, 2004	
CF-3B. Develop a written agreement between the Catawba nation and DHEC to address child find and the provision of Part C services to Catawba Nation infants and toddlers. (Findings: 2a, 2b)	Submit to OSEP draft written agreement. Submit signed written agreement	May 31, 2004 July 31, 2004	
CF-3C. Train BabyNet staff in cultural competence and agreement specifics. (Findings: 2a, 2b)	Agenda and list of participants from training is available for review.	July 2004	
CF-3D. Implement the activities in the agreement. (Findings: 2a, 2b)	As documented in quarterly reports to OSEP.	September 30, 2004	
Objective CF-4: Implement statewide public awareness activities targeted to the general population and referral sources.			
CF-4A. Revise BabyNet System display boards and create an additional board in Spanish. (Findings: 2a, 2e)	Display board in English and Spanish are available for use by BNCTs in local child find efforts. Use of the display boards for public awareness/child find activities will be reported.	November 30, 2003	
CF-4B. Revise BabyNet System brochure with Spanish translation. (Findings: 2e)	Brochure in English and Spanish is available for review and dissemination. Number of brochures, where and to whom will be documented and	December 31, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
CF-4C. Create distribution process for use by BNCTs (including order and dissemination/tracking forms) for public awareness materials. (Findings: 2b, 2d)	reported. Distribution/tracking process and forms are available for review and dissemination through BNCT is documented. How a family found out about BabyNet will be recorded through BabyTrac-II and analyzed to determine effectiveness of various strategies.	June 30, 2004	
CF-4D. Update (with input from families) and disseminate BabyNet video including a Spanish version. (Findings: 2b, 2d)	Video is available for review; list of doctor's offices, clinics, DHEC waiting rooms, and Health district waiting rooms, etc. in which video was distributed available for review.	September 30, 2004	
Objective CF-5: Ensure the development and implementation of individual BabyNet Coordination Team Child Find Plans as a component of the overall BNCT Compliance Plan process.			
CF-5A. Prepare data tables for the state and for each BNCT by county (by underrepresented group, including infants and toddlers with disabilities in rural areas) on numbers of infants and toddlers referred and determined eligible and sources of referrals. Districts will be ranked according to these variables. (Findings: 2a, 2b)	Data reports will be available for review and disseminated to SC-ICC and BNCTs. Report data quarterly to OSEP to monitor progress.	September 30, 2003 and quarterly thereafter.	
CF-5B. Consult with National Early Childhood Technical Assistance Center (NECTAC) for assistance in designing the process and tools BNCTs will use to develop and implement their local child find plans to target underrepresented populations including rural areas, timely referral, appropriate referral sources, and effective strategies. These plans will include root cause analysis with particular attention to problems SC is having now and identification of state causes, local causes, personnel issues	Procedures for the written plans and tools for local child find plans will be available for review.	October 31, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
and/or implementation issues. (Findings: 2a, 2c)			
CF-5B.1 Incorporate child find improvement planning into overall BabyNet Coordination Team Compliance Plans under General Supervision Objectives GS-5. (Findings: 2a, 2b, 2c, 2d, 2e)	BNCT Compliance Plans submitted in accordance with GS-5 will include improvement strategies to explain or address discrepancies in data. Compliance Plan progress will be reported to OSEP in quarterly reports.	Timelines as indicated in GS-5 target dates of completion.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Find/Public Awareness

**South Carolina Department of Health and Environmental Control
Compliance Agreement
AREA 3: CHILD EVALUATION COMPLIANCE WORK PLAN**

AREA OF NON-COMPLIANCE: DHEC does not ensure that all infants and toddlers are evaluated in all 5 developmental areas in the required timeframe.

BASELINE DATA:

1. CIMP Self-Assessment Report – December 2000:

- a. Need to decrease waiting times for evaluations was noted; and
- b. Developmental domain assessments were not conducted on all infants and toddlers that were referred prior to the initial IFSP.

2. OSEP Monitoring Report – Onsite Visit February 2002:

- a. Evaluations and assessments were not completed in all five developmental areas;
- b. Outcomes on initial IFSP were limited to future referrals for further evaluation and assessment;
- c. Infants and toddlers were not evaluated in the areas of vision and hearing;
- d. Evaluations and assessments were not completed within the 45-day timeline;
- e. There were waiting lists for evaluations and assessments; and
- f. Shortages of providers in some areas affected completion of evaluations and assessments in a timely manner.

3. BabyTrac Data:

- a. Data indicates continued delays in meeting 45-day requirement – June 2003.

OUTCOME: DHEC will ensure that infants and toddlers receive timely comprehensive evaluations in all five developmental areas to enable the initial IFSP team meeting to be convened within 45 calendar days from referral.

Goal 1: DHEC will ensure that evaluations and assessments are completed in all five developmental areas – cognitive development, physical development, including vision and hearing, communication development, social or emotional development and adaptive development.

Goal 2: DHEC will ensure that infants and toddlers receive timely evaluations and assessments in order to enable the initial IFSP team meeting to be convened within 45 calendar days from referral and eliminate waiting lists for evaluations and assessments.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Evaluation

With prior written approval from OSEP, adjustments to the Activities to Reach Results column listed in this table may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes or amendments will be submitted to OSEP in writing.

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
Objective EV-1: Develop and implement a coordinated statewide set of strategies to address systemic problems in the 45-day evaluation/assessment process, through analysis of root causes of problems as identified through the monthly self-report data from BabyNet Service Coordinators. EV-1A. Compile and analyze 3 months of self-reported data from every BN Service Coordinator through September 2003 to determine extent and root causes of noncompliance in this area. Data shall include: • Number of infants and toddlers with disabilities who were referred to Part C for evaluation and assessment; • Number of infants and toddlers who are waiting for evaluations and assessments in any of the five developmental areas within 45 days of referral; • Extent of the delay (i.e., the number of days past the 45 day timeline). • Number of additional infants and toddlers added to waiting list for evaluations and assessments during the reporting period. • Reasons for delay in evaluation/assessment including inadequate numbers of personnel in specific disciplines/BNCTs, and other factors including delays in report writing, scheduling IFSP meetings, and in referring for evaluation/assessments, etc. (Findings: 2a, 2c, 2d, 2f) EV-1B. Based on the analysis of extent and root causes	Statewide report on root causes of compliance problems with evaluation/assessment process is submitted to OSEP.	October 31, 2003	
EV-1B. Based on the analysis of extent and root causes	Statewide strategies and plan for their	December 31, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Evaluation

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
at the State systems level, the local community level, personnel issues, and implementation practices, the DHEC, with advice from the South Carolina Interagency Coordinating Council Personnel Committee, will identify systemic statewide strategies to resolve compliance problems in this area. Particular attention will be paid to shortages of discipline-specific personnel within BNCTs as well as other causes including delays in evaluation report writing, timely referrals for evaluations and delays in scheduling the IFSP meeting. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	implementation is submitted to OSEP.		
EV-1C. Implement systemic statewide strategies as determined by the plan including development and implementation of fiscal contracts, training for staff involved as necessary, and analysis of the number of personnel available to determine if adequate. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	Documentation of implementation of strategies submitted to OSEP.	March 31, 2004	
EV-1D. Continue to evaluate progress in this area through BabyTrac-II reports and make adjustments as necessary until desired result is reached. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	Monthly reports from BabyTrac-II will be available for review to track improved compliance.	First report available by January 31, 2004 and monthly thereafter.	
Objective EV-2: Ensure the development and implementation of the overall BNCT Compliance Plan process.	Child Evaluation Compliance Plans as a		
EV-2A Based upon data received in EV-1A, prepare data tables for each BNCT by county. Districts will be ranked according to the variables listed in the verification column. Each BN Coordination Team will demonstrate continuous improvement in ensuring all infants and toddlers receive timely evaluations and assessments, including vision and hearing within the 45-day timeline. Quarterly benchmarks (which shall be either a percentage or a numerical decrease from the	Data reports will be submitted to OSEP and disseminated to SC-ICC and BNCTs. In its quarterly report to OSEP, DHEC shall provide monthly summaries for each BNCT with a completed Compliance Plan that detail progress in meeting benchmarks. A narrative shall be included that details how DHEC has analyzed and responded to the data provided by each BNCT.	September 30, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Evaluation

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
prior reporting period will be established for each BN Coordination Team and approved by OSEP). Data on each BNC team's progress in meeting the benchmarks shall be submitted to OSEP and incorporated into each respective BNCT Compliance Plan. Benchmarks must be established separately for those who were on a waiting list on August 31, 2003 and those who are identified after August 31, 2003. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly with individual BNCTs, as necessary. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)			
EV-2B. Incorporate local infant and toddler evaluation improvement planning, including benchmarks, into overall BabyNet Coordination Team Compliance Plan Process under General Supervision Objectives GS-5. (Findings: 2a, 2b, 2c, 2d, 2e, 2f) Each BNCT will address local issues specific to the current evaluation and assessment process, additional funding and personnel needs, best practice models etc.	Compliance Plans submitted in accordance with GS-5 will include improvement strategies to address discrepancies in data in EV-1A. Benchmarks for the Target Group 1 (6 BNCTs) will be submitted to OSEP. Benchmarks for the Target Group 2 (6 BNCTs) will be submitted to OSEP. In its quarterly report to OSEP, DHEC shall provide monthly summaries for each BNCT with a completed Compliance Plan that detail progress in meeting benchmarks. A narrative shall be included that details how DHEC has analyzed and responded to the data provided by each BNCT.	Timelines as indicated in GS-5 target dates of completion. January 31, 2004 June 30, 2004 January 31, 2004 and quarterly progress reports thereafter.	
Objective EV-3: With parental consent, infants and toddlers being evaluated for eligibility will receive vision and hearing screenings. EV-3A. Develop vision and hearing screening policies and procedures. (Finding: 2c)	Vision and hearing screening policies/procedures submitted to OSEP.	October 31, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – Child Evaluation

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
EV-3B. Develop and implement plan to train staff in implementation of vision and hearing screening policies/procedures. (Finding: 2c)	Training plan and documentation of completed training available for review.	January 31, 2004	
EV-3C. Continue to evaluate progress in this area through BabyTrac-II reports and data collected and analyzed in EV-1A. Make adjustments as necessary until desired result is reached. (Finding: 2c)	BabyNet Coordination Teams to track and report monthly (see EV-1A) the: • Number of infants and toddlers not evaluated in the area of vision within 45 days from the date of referral and the number of additional children added to waiting list for vision evaluations during the reported period; • Number of children not evaluated in the area of hearing within 45 days from the date of referral and the number of additional children added to waiting list for hearing evaluations during the reported period. DHEC to report on data to OSEP quarterly. Continuous progress will be documented until, no later than three years from the date of the compliance agreement, the number of children not receiving timely vision and hearing evaluations is zero.	First report available by March 31, 2004 and monthly thereafter.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
 South Carolina Compliance Agreement – Child Evaluation

**South Carolina Department of Health and Environmental Control
Compliance Agreement
AREA 4: IFSP AND SERVICES COMPLIANCE WORK PLAN**

AREA OF NON-COMPLIANCE: DHEC does not ensure that IFSPs are developed with the following required content- present levels of development and a statement of early intervention services needed. Further, DHEC is unable to ensure the provision of needed IFSP services for all eligible infants and toddlers and their families, as required by Part C regulations.	
BASELINE DATA: 1. CIMP Self-Assessment Report – December 2000: a. Not all eligible infants and toddlers with disabilities were receiving all the services written in the IFSP as evidenced by waiting lists for services, particularly speech and occupational therapy services; and b. IFSP services are not consistently provided especially in rural areas, due to a lack of available providers. 2. OSEP Monitoring Report – Onsite Visit February 2002: a. Present levels of functioning were written on the IFSP in some developmental areas, but were frequently omitted for the physical and communication developmental areas; b. All needed services, including family support services, were not listed on the IFSP; c. Providers reported that it was difficult to obtain counseling services and parenting classes; d. EI services were delayed; e. For some infants and toddlers with disabilities and families, EI services were not provided; and f. Waiting lists existed for both evaluations and services.	
OUTCOME: DHEC will ensure the development of complete IFSPs for all eligible infants and toddlers with disabilities and their families and ensure that all infants and toddlers with disabilities and their families are provided early intervention services in a timely manner. Goal 1: All IFSPs will contain the required components in accordance with Part C. Goal 2: All infants and toddlers with disabilities and their families will receive all services identified on their IFSP in a timely manner and waiting lists for all early intervention services will be eliminated.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – IFSP and Services

With prior written approval from OSEP, adjustments to the Activities to Reach Results column listed in this table may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes or amendments will be submitted to OSEP in writing.

Objectives/Activities to Reach Results	Documentation of Activities	Target Completion Date	Date Completed
Objective SP-1: Develop and implement a coordinated statewide set of strategies to ensure IFSPs are completed in accordance with Part C regulations and early intervention services are delivered in a timely manner, through analysis of root causes of problems as identified through the monthly self-report data from BabyNet Service Coordinators. SP-1A. Compile and analyze 3 months of self-reported data through October 2003 to determine extent and root causes of difficulties in this area. Data to include: (1) the number of infants and toddlers with disabilities with IFSPs that do not list the present levels of functioning in each of the five developmental areas; (2) the number of infants and toddlers with disabilities with IFSPs that do not provide a statement of early intervention services needed on the IFSP; (3) the number of infants and toddlers with disabilities for whom the initial IFSP was not completed within 45 days from the date of referral and the number of additional infants and toddlers with disabilities added to the list during that reporting period; (4) the number of infants and toddlers with disabilities and their families who are not receiving all the Part C services listed on the infant or toddler's IFSP; (5) the type(s) of early intervention service(s) (including services to families as well as to infants and toddlers with disabilities) that have waiting lists and for each early intervention service, the number of infants and toddlers with disabilities on the waiting list for that particular intervention service and the number of additional infants and toddlers	State report on extent and root causes of compliance problem with (1) IFSP content requirements being met, (2) completion in 45-day timeline for initial IFSP and (3) timely provision of early intervention services process will be submitted to OSEP.	November 30, 2003	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – IFSP and Services

Objectives/Activities to Reach Results	Documentation of Activities	Target Completion Date	Date Completed
with disabilities added to the waiting list for that service during the reporting period; (6) For each early intervention service for which there is a waiting list, the minimum and maximum waiting days that each eligible infant or toddler or the family is on the waiting list. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)			
SP-1B. Based on the analysis of the extent and root causes, identify systemic statewide strategies (such as single provider contracts for specific areas, reimbursement strategies, etc.) to resolve compliance problems in this area related to unavailability of EI services, waiting lists, non compliant providers, etc. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	State strategies and plan for their implementation are submitted to OSEP.	January 31, 2004	
SP-1C. Implement systemic statewide strategies as determined by the plan. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	Documentation of implementation of strategies is submitted to OSEP.	April 30, 2004	
SP-1D. Continue to evaluate progress in this area through BabyTrac-II reports and data collected through SP-1A and make adjustments as necessary until desired result is reached. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	Monthly reports from BabyTrac-II available for review to track compliance.	First report available by February 29, 2004 and monthly thereafter.	
Objective SP-2: Ensure the development and implementation of IFSP completion and timely early intervention services Compliance Plans as part of the overall BN Coordination Team Compliance Plan process.			
SP-2A. Incorporate local IFSP completion and timely services improvement planning into overall BabyNet Coordination Team Compliance Plan Process under General Supervision Objectives GS-5. Each BNCT will address local issues specific to the current delivery of IFSP services in a timely manner to include resource and personnel issues. Each BN Coordination Team	Compliance Plans submitted in accordance with GS-5 will include improvement strategies to address discrepancies in data in SP-1A. Benchmarks for the Target Group 1 (6 BNCTs) will be submitted to OSEP.	Timelines as indicated in GS-5 target dates of completion. January 31, 2004	

*The findings numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – IFSP and Services

Objectives/Activities to Reach Results	Documentation of Activities	Target Completion Date	Date Completed
will demonstrate completing IFSPs, continuous improvement in eliminating waiting lists for each quarter for timely convening of initial IFSP meeting within 45 days, and timely provision of early intervention services. Quarterly benchmarks (which shall be either a percentage or a numerical decrease from the prior reporting period) will be established for each BN Coordination Team and approved by OSEP). Data on each BNC team's progress in meeting the benchmarks shall be submitted to OSEP and incorporated into each respective BNCT Compliance Plan. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly (including using appropriate sanctions) with individual BNCTs, as necessary. (Findings: 2a, 2b, 2c, 2d, 2e, 2f)	Benchmarks for the Target Group 2 (6 BNCTs) will be submitted to OSEP. In its quarterly report to OSEP, DHEC shall provide monthly summaries for each BNCT with a completed Compliance Plan that detail progress in meeting benchmarks. A narrative shall be included that details how DHEC has analyzed and responded to the data provided by each BNCT.	June 30, 2004 January 31, 2004 and quarterly progress reports thereafter.	

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement – IFSP and Services

**South Carolina Department of Health and Environmental Control
Compliance Agreement
AREA 5: TRANSITION COMPLIANCE WORK PLAN**

AREA OF NON-COMPLIANCE: DHEC does not ensure that the local education agency is notified of children who are approaching the age for transition, holding a transition meeting, and ensuring that a transition plan is developed and implemented in accordance with the requirements of Part C of IDEA.

BASELINE DATA:

1. CIMP Self-Assessment Report – December 2000:

- a. Some eligible children were not receiving timely transition planning; and
- b. Some children with disabilities, eligible under Part B, may not receive appropriate special education and related services by their third birthday.

2. OSEP Monitoring Report Findings – Onsite Visit February 2002:

- a. School districts were not being notified of BabyNet eligible children approaching three;
- b. Transition meetings were not being held in accordance with Part C requirements; and
- c. Transition plans were not being developed and implemented in accordance with Part C requirements.

3. 618 Data – December 1, 2002

- a. Data inconsistencies regarding number of children transitioning to SCDE;
- b. Children not being transitioned into LEA by their third birthday.

OUTCOME: DHEC will ensure that timely transition notices are provided and transition meetings are held and that transition plans are developed to assist all eligible children and their families as they exit Part C.

Goal 1: DHEC will ensure that the local education agency is notified of children who are approaching the age for transition at least 90 days prior to the child turning three in accordance with the requirements of Part C.

Goal 2: DHEC will ensure that a transition meeting is held in accordance with the requirements of Part C of IDEA.

Goal 3: DHEC will ensure that transition plans are developed and implemented in accordance with the requirements under Part C.

*The finding numbers referenced here correspond to the summary of OSEP's findings on page 1 of this chart.
South Carolina Compliance Agreement - Transition

With prior written approval from OSEP, adjustments to the Activities to Reach Results column listed in this table may be made when necessary to support achievement of compliance outcomes within the required timelines. The Activities to Reach Results will be evaluated every six months to determine their effectiveness and any need for change. Any requests for changes or amendments will be submitted to OSEP in writing.

Objectives/Activities to Reach Results	Verification	Target Completion Date	Date Completed
Objective TR-1: Jointly with South Carolina Department of Education (SCDE), ensure that children exiting BabyNet, who are eligible for preschool special education, timely transition planning.			
TR-1A. Track monthly transition compliance self-report data from all service coordinators. Data shall include: • Number of children for whom the LEA has not been notified of Part C children approaching the age of three; • The number of children for whom a transition meeting has not been held within the minimum 90-day period prior to the child's turning age three; • The number of children who do not have transition plans. (Findings: 2a, 2b, 2c)	Monthly statewide reports on compliance with transition submitted to OSEP quarterly.	September 30, 2003 & monthly thereafter.	
TR-1B. Send compiled follow-up Local Education Agency (LEA) data to SCDE for SCDE response to LEAs, as needed. Data to report on preschoolers who were: • Evaluated and determined not eligible for Part B; or • Evaluated and determined eligible for Part B (and date IEP was completed). (Finding: 2b)	Reports submitted to SCDE for analysis and any necessary action. Reports submitted to OSEP quarterly.	September 30, 2003 and quarterly thereafter.	

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South Carolina Compliance Agreement - Transition

Objective TR-2: Ensure the development and implementation of individual BabyNet Coordination Team Transition Compliance Plans as a component of the overall BNCT Compliance Plans.			
TR-2A. Incorporate transition improvement planning into overall BabyNet Coordination Team Compliance Plans under General Supervision Objectives GS-5. Each BN Coordination Team will demonstrate continuous improvement in ensuring that all eligible children receive required Part C Transition planning in a timely manner when exiting BabyNet each quarter. Quarterly benchmarks (which shall be either a percentage or a numerical decrease from the prior reporting period, will be established for each BNCT). Data on BNCT's progress in meeting the benchmarks shall be submitted to OSEP and incorporated into each respective BNCT Compliance Plan. DHEC will monitor each BNCT to ensure that benchmarks are met and will intervene directly (including using appropriate sanctions) with individual BNCTs, as necessary. (Findings: 2a, 2b, 2c)	BNCT Compliance Plans submitted in accordance with GS-5 will include improvement strategies to address discrepancies in data in TR-1A. Compliance Plan progress will be reported to OSEP in quarterly reports. Benchmarks for the Target Group 1 (6 BNCTs) will be submitted to OSEP. Benchmarks for the Target Group 2 (6 BNCTs) will be submitted to OSEP. In its quarterly report to OSEP, DHEC shall provide monthly summaries for each BNCT with a completed Compliance Plan that detail progress in meeting benchmarks. A narrative shall be included that details how DHEC has analyzed and responded to the data provided by each BNCT.	Timelines as indicated in GS-5 target dates of completion. January 31, 2004 June 30, 2004 January 31, 2004 and quarterly progress reports thereafter.	
Objective TR-3: Jointly with the South Carolina Department of Education (SCDE), ensure statewide development and implementation of Local Interagency Transition Agreements (LITAs), facilitated through BabyNet Coordination Teams, which outline strategies for the effective transition of all children exiting the Part C system.			
TR-3A. Submission of all draft LITAs for review to DHEC and SCDE. (Findings: 2a, 2b, 2c)	Draft LITAs are available for review.	September 30, 2003	
TR-3B. All final LITAs will be completed, approved and signed. (Findings: 2a, 2b, 2c)	Approved LITAs with signatures are available for review.	November 30, 2003	

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South Carolina Compliance Agreement - Transition

TR-3C. Review and revise joint procedures with SCDE to determine steps to ensure continuing compliance with this objective. (Findings: 2a, 2b, 2c)	New joint monitoring procedures will be available for review. Provide OSEP with narrative summary of LITA implementation.	June 30, 2004 and quarterly thereafter.
Objective TR-4: Jointly with SCDE, to ensure smooth transitions for children exiting from BabyNet, complete a transition guidance document for families that outlines the responsibilities of programs, the steps that will occur, services available and the role and rights of families in the process.		
TR-4A. Convene an interagency workgroup with parent representation to design the document. (Findings: 2a, 2b, 2c)	Minutes of first meeting available for review.	October 31, 2003
TR-4B. With NECTAC assistance, collect sample guidance documents from other states. (Findings: 2a, 2b, 2c)	Documents available for review.	October 31, 2003
TR-4C. Complete draft guidance document obtaining input from workgroup throughout. (Findings: 2a, 2b, 2c)	Draft document available for review.	January 31, 2004
TR-4D. Complete and disseminate final document. (Findings: 2a, 2b, 2c)	Final document and dissemination plans available for review.	April 30, 2004
TR-4E. Translate and disseminate document into two additional languages as determined by South Carolina population needs. (Findings: 2a, 2b, 2c)	Final translated documents and dissemination plans available for review. Confirm to OSEP when document disseminated.	June 30, 2004
Objective TR-5: With SCDE, design and implement joint training and TA activities related to smooth and effective transition.		
TR-5A. Conduct Statewide Transition Tele-conference for BabyNet Service Coordinators and Part B staff. (Findings: 2a, 2b, 2c)	Agenda and evaluations will be available for review.	October 31, 2003
TR-5B. Conduct ongoing Part C Transition Training for new staff. (Findings: 2a, 2b, 2c)	Documentation of training schedule will be available for review in quarterly report Confirm to OSEP when training is completed.	November 30, 2003 and quarterly thereafter.

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South Carolina Compliance Agreement - Transition