

Dated November 4, 2005

Danita Munday, Coordinator
First Steps Early Intervention Program
Mississippi Department of Health
570 Woodrow Wilson
P.O. Box 1700
Jackson, Mississippi 39125-1700

Dear Ms. Munday:

Thank you for your recent e-mail and telephone conversations regarding Mississippi's Part C Early Intervention Program (known as the First Steps Program) challenges in the wake of Hurricane Katrina. We, at the Office of Special Education Programs (OSEP), at the U.S. Department of Education (Department) support the work of you and your staff during these difficult and challenging times as you work to ensure the provision of early intervention services to infants and toddlers with disabilities and their families under Part C of the Individuals with Disabilities Education Act (IDEA).

In your September 8, 2005 e-mail, you asked: "What guidance can you give us about restarting early intervention services for displaced families?" The Department encourages your State to make available early intervention services for all displaced infants and toddlers with disabilities and their families as soon as possible. The first step is to obtain parent consent for contacting the program where the child was receiving Part C services under 34 CFR §303.402, as well as consent for any needed evaluation and assessment under 34 CFR §303.404. If appropriate, a State may use an interim Individualized Family Service Plan (IFSP), consistent with 34 CFR §303.345, until such time the records establishing eligibility are available or such time an evaluation and assessment can be conducted to determine eligibility.

Some States have asked about residency requirements. Under Part C, the lead agency in a State must make early intervention services available to **all** infants and toddlers with disabilities in the State regardless of residence. 20 U.S.C. §1434(1). The 2004 Amendments to the IDEA added explicit references to "homeless" children with disabilities, who by their status do not have clearly identified State residency. Thus, the State must make Part C services available to all eligible children living within the State even if the child or family has not yet established residency under State law.

During several phone conversations with OSEP staff in September 2005 you mentioned concerns about providing services in natural environments due to gas shortages and to families living in alternative living arrangements or shelters.

Under Part C's natural environment requirements at 34 CFR §§303.12, 303.18, and 303.167, States must ensure the provision of early intervention services in the natural environment, to the maximum extent appropriate and, under 34 CFR §303.344(d)(1)(ii), a child's IFSP must include an appropriate justification for any early intervention service that is not provided in the natural environment. I know that Mississippi's First Steps Program is working to address the logistical and practical concerns to provide early intervention services in the natural environment. Due to Hurricane Katrina's extensive impact, some communities may need to make early intervention services available as soon as possible, which, temporarily, may need to be provided in settings other than the natural environment. In such instances, the IFSP team shall, under 34 CFR §303.344(d)(1)(ii), document on the IFSP the steps needed to ensure provision of early intervention services in the natural environment as soon as possible. Finally, transportation is an early intervention service under 34 CFR §303.12(d)(15) that must be considered by the IFSP team when a family is required to travel for the sole purpose of obtaining access to an early intervention service that is clearly being provided in an environment that is not natural for that service or child.

A few States have asked about Part C's personnel standard requirements. Part C provides States the flexibility to determine the appropriate personnel standards under Section 635(a)(8) and (a)(9). Thus, States retain the authority to grant temporary, emergency or other appropriate certification and may use paraprofessionals as specified under State law and Part C.

You also requested additional time for submitting your IDEA State Performance Plan (SPP). In light of the unforeseen consequences of Hurricanes Katrina and Rita, and in order to ensure an orderly transition to the requirements of the Individuals with Disabilities Education Improvement Act of 2004 (Pub. L. No.108-446) (the Act), the Secretary is exercising her transition authority under section 303 of the Act to extend the submission date for State Performance Plans (SPPs) under section 616(b)(1)(A) of the Act for 60 days for the States with respect to which the President has declared that a hurricane disaster exists because of Hurricanes Katrina or Rita. Therefore, we are extending the due date for submission of your State's SPP until January 30, 2006.

I recognize the challenges the Mississippi First Steps Early Intervention System is facing and appreciate the requests and concerns that have been shared. OSEP staff stands with you as you confront these challenges. If you have any questions, please contact Rhonda Spence at (202) 245-7382.

Sincerely,

/s/ Patricia J. Guard for

Troy R. Justesen
Acting Director
Office of Special Education Programs