

Dated November 4, 2005

Linda Pippins
Children's Special Health Services Program Manager
Office of Public Health
1201 Capitol Access Road, Bin #4
Baton Rouge, LA 70802

Dear Ms. Pippins:

Thank you for your communications regarding the challenges Louisiana is facing in providing early intervention services in the wake of Hurricane Katrina. The purpose of this letter is to respond to your email dated September 19, 2005 and the requests that have been shared through various telephone communications with the Office of Special Education Programs (OSEP), at the U.S. Department of Education (Department).

In light of the major devastation to the State following Hurricane Katrina on August 29, 2005, you requested three extensions of documents required to be submitted to OSEP. First, you requested a six-month extension of the deadline to submit the progress report under the FFY 2005 Part C grant Special Conditions which is due October 28, 2005. OSEP's letter responding to Louisiana's FFY 2003 APR confirms OSEP's approval of this request for an extension until April 14, 2006. Second, you requested a six-month extension of the deadline for submission of the State Performance Plan (SPP) required under the Individuals with Disabilities Education Act (IDEA). 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.

Finally, you requested an extension of the October 3, 2005 closing date for applications under the IDEA General Supervision Enhancement Grant (GSEG) program. The Department issued an October 7, 2005 public notice in the Federal Register extending the closing date for this competition until October 19, 2005. We are pleased that you were able to apply and have received your application. It will be reviewed in November and you will be notified regarding the status of your grant request in December.

In your communications, you expressed concerns about whether the State is permitted to share Individualized Family Service Plans (IFSPs) in order to meet the needs of infants and toddlers with disabilities and their families displaced by Hurricane Katrina. OSEP

assumes that the program or agency requesting a copy of the IFSP from Louisiana has obtained parent consent under 34 CFR §303.402 and that the parent has requested the continuation of early intervention services and provided consent for evaluation and assessment and, where appropriate, the provision of early intervention services under 34 CFR §303.404. The definition of parent under Part C (at 34 CFR §303.19) is broad enough to encompass relatives or other individuals with whom the displaced child is living in addition to the biological parent.

A few other questions have been raised by neighboring States about the use of interim IFSPs, provision of Part C services in the natural environment and State personnel standards.

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 have not yet established residency under State law.

The Department encourages your State to make early intervention services available 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 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.

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 the Louisiana Early Intervention System 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 the 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.

OSEP recognizes the challenges the Louisiana Early Intervention System is facing and appreciates all the work you and your staff are doing to support families disrupted by Hurricane Katrina. If you have any questions, please contact Mary Louise Dirrigl at (202) 245-7324.

Sincerely,

/s/ Patricia J. Guard for

Troy R. Justesen
Acting Director
Office of Special Education Programs