

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