



Status Report to the SC General Assembly
Pursuant to Proviso 1.82 of the General Appropriations Act for FY2017

Prepared by SC First Steps to School Readiness
December 20, 2016

BabyNet is South Carolina's interagency, early intervention program for infants and toddlers with disabilities and developmental delays. Enabled under Part C of the federal Individuals with Disabilities Education Act (IDEA), BabyNet provides early childhood special education services to the families of eligible children, designed to prepare each for school success.

The program is funded with a combination of state appropriations and federal grant funds, with current partners including SC First Steps (which serves as the current lead agency and oversees local system point of entry offices), the SC Department of Disabilities and Special Needs, the SC School for the Deaf and the Blind, the SC Department of Health and Human Services (which will assume lead agency status on July 1, 2017), and hundreds of contracted service providers across the state.

Since the program's inception under the SC Department of Health and Environmental Control in 1991, South Carolina's BabyNet program has struggled to comply with strict federal guidelines around the program's operation, becoming the first state in the nation to enter into a federal compliance agreement with the United States Department of Education in 2003. Citing the program's challenged performance and education focus, Governor Mark Sanford designated SC First Steps to School Readiness as the program's new lead agency in January of 2010.

At the time of its transfer, the program was insolvent (relying on one time federal funds from the American Recovery and Reinvestment Act to pay its rapidly rising service costs) and had recently been cited by the SC State Auditor as failing to maintain a system of general supervision. As a support to the new lead agency, lawmakers requested a

retrospective review by the SC Legislative Audit Council, designed to identify areas for improvement within the struggling system.

Since 2010 First Steps – working in near weekly collaboration with national technical assistance resources – has made significant progress toward bringing the BabyNet system into federal compliance, implementing each of the LAC’s recommendations to the agency, reestablishing the grant’s required system of general supervision, adding efficiency and accountability measures which successfully reversed the substantial fiscal deficits inherited from DHEC in both January of 2010 and July of 2011 (when all remaining front-line BabyNet employees were transferred to First Steps), improving monitoring and supervision of service providers, creating a detailed interagency financial reporting structure, and replacing the system’s outdated data system with one capable of collecting key data required by the federal government.

One longstanding compliance challenge for the state has been the federal government’s requirement that all eligible children proceed from initial referral, through an eligibility evaluation of the child and family, to the development of a formal Individualized Family Service Plan (IFSP, the infant-toddler equivalent of the K-12 system’s Individualized Education Plan or IEP) within 45 days from initial contact. With a small frontline staff charged with processing roughly 10,000 client referrals annually, the state has been perpetually challenged in its efforts to meet this compliance deadline.

With the support of the General Assembly – which appropriated \$1.1 million and 23 new FTEs to the effort during FY16 – First Steps successfully deployed new staff across the state designed to address this challenge, with data suggesting improved compliance in the

intake process. During March of 2016, each regional BabyNet intake office averaged less than 45 days (from intake to initial IFSP) for what is believed to be the first time in the program's 25 year history.

During FY16, First Steps also seated a diverse, interagency "BabyNet Think Tank" to analyze the system's current weaknesses and address potential solutions. The group produced a set of funding recommendations to the SC General Assembly, the most significant of which (new service funds designed to address rising, interagency service costs and the creation of objective Eligibility and Assessment Teams) were funded in the General Appropriations Act for FY17.

Citing significant overlap in the BabyNet and Medicaid populations and a desire to better align Part C services with the Medicaid care plans of participating children, Governor Haley issued Executive Order 2016-20 on September 14, 2016, transferring the lead agency designation for BabyNet from First Steps to the SC Department of Health and Human Services (DHHS), effective July 1, 2017. The order charges the agencies with working together to ensure a smooth and effective transition for the program.

SC First Steps takes pride in specific and measurable improvements made to BabyNet under its leadership and stands ready to support its continuing improvement under the new lead agency. Below, we summarize major improvements to the BabyNet system under First Steps' leadership, along with continuing challenges faced by the system.

System of General Supervision

First Steps inherited BabyNet in a state of crisis. At the time of its transfer in 2010, the program was insolvent (relying on one time federal funds from the American Recovery and Reinvestment Act to pay its rapidly rising service costs) and had recently been cited by the State Auditor as failing to maintain a system of general supervision. With near-weekly support from national and regional technical assistants made available to the state by the United States Department of Education's Office of Special Education Services, First Steps has meticulously rebuilt BabyNet's required system of general supervision, resulting in federal approval and implementation of:

- **State Performance Plan and Annual Performance Report:** The federal Individuals with Disabilities Education Act (IDEA) requires each state to develop a State Performance Plan (SPP) and Annual Performance Report (APR) that evaluates its efforts to implement the requirements and purposes of the law, and describes how the state will improve implementation. The Part C SPP/APR includes indicators that measure child and family results, and other indicators that measure compliance with the requirements of federal law.
- **State Systemic Improvement Plan:** Beginning in 2012, the Part C SPP/APR includes a State Systemic Improvement Plan (SSIP) through which each state focuses its efforts on improving a locally-selected child or family outcome. South Carolina's Part C SSIP is designed to explore and address the needs of young children with Autism Spectrum Disorder (ASD).
- **Policies and Procedures:** Federal law requires each Part C system to develop and seek federal approval of detailed policies and procedures designed to assure adherence to IDEA Part C and to serve as a guideline for

the provision of early intervention to families of eligible infants and toddlers.

- **Integrated Monitoring Activities:** In order to ensure system-wide quality and compliance, the lead agency is expected to develop monitoring activities which integrate on-site (record reviews, interviews, etc.) and off-site (desk audits, surveys, contract management) components.
- **Fiscal Management:** As a federal grantee, South Carolina is expected to develop policies and practices designed to ensure effective management of IDEA Part C dollars.
- **Data on Clients, Processes and Results:** As lead agency, First Steps was responsible for the replacement of BabyNet's outdated legacy data system with a new system, BRIDGES, designed to meet regulatory reporting requirements for the State Performance Plan, an electronic educational record, and mechanisms for accountability of use of BabyNet Service Funds by providers
- **Procedures for Timely Identification and Correction of Non-Compliance:** In order to ensure that the educational rights of each client are protected, Part C systems are required to identify and document the correction of any instance of federal non-compliance – and to ensure that system providers subsequently sustain their compliance. In order to support this need, First Steps has repurposed selected state staff to serve as Regional Part C Coordinators in support of identification and correction.
- **Maintenance of a Comprehensive System of Personnel Development:** Under First Steps' leadership, SC has revised both its procedures and the content of the Comprehensive System of Personnel Development, to ensure the South Carolina Part C Credential is grounded in evidence-based practices

Fiscal Management and Reporting

At the time of its transfer from DHEC to SC First Steps in 2010, members of the SC General Assembly requested that the Legislative Audit Council prepare a retrospective audit of the BabyNet system, designed to support the new lead agency

through the identification of both current and historical challenges to federal compliance. Despite its resources and legislative authority, the LAC was unable to comprehensively inventory all system resources and expenditures due to the state's uniquely decentralized funding mechanism – in which state funds for BabyNet flowed, not only through the lead agency required to maintain a “single line of authority” over the program by the federal government, but also to a number of partner agencies outside of DHEC's (and subsequently First Steps') scope of practical supervision.

Noting that South Carolina's Part C structure was uniquely problematic in this regard, the LAC's first, and most overriding, recommendation to the General Assembly in 2011 was that:

“The General Assembly should appropriate all BabyNet funding directly Recommendations to First Steps to increase accountability for the lead agency with regard to partner agencies and providers.”

As of this writing, the SC General Assembly is yet to act on this critical recommendation, a fact which continues to hinder both the state's success and the effective use of BabyNet resources. In the interests of the new lead agency, SC First Steps strongly urges the General Assembly to enact this recommendation. It is important to note that consolidating these funds under DHHS need not entail the loss of BabyNet resources by any partner agency, but instead create a scenario in which the new lead agency will be able to contract for the provision of these services while simultaneously maintaining authority for their appropriate use and accounting.

In the absence of this much-needed system reform, First Steps has nonetheless made substantial progress toward ensuring inter-agency fiscal accountability and reporting.

- **Interagency Fiscal Reporting:** While the General Assembly has yet to consolidate BabyNet funding under the lead agency, First Steps has been

successful, via proviso, in ensuring interagency fiscal reporting. In collaboration with partner agencies, First Steps developed an interagency reporting template and has comprehensively captured BabyNet system expenditures for state fiscal years 2013, 2014, 2015, and 2016.

- **Annual Auditing of Lead Agency Expenditures:** First Steps undergoes an independent annual audit of financial statements following generally accepted government auditing standards, including the provision of reasonable assurance that the statements are accurate, that internal controls to prevent fraud and abuse are adequate, and that BabyNet funds have not been spent on non-BabyNet activities.
- **Verification of Service Delivery:** All invoices submitted by BabyNet service providers are now required to contain the signature of the parent/guardian of the child receiving the services.
- **BabyNet Rates Not to Exceed Medicaid:** At the time of the program's inheritance, BabyNet rates were often well above those paid by Medicaid. Since 2011 it has been the policy of the First Steps Board of Trustees to maintain BabyNet rates at or below those used by the state Medicaid agency.
- **Improvements to the BabyNet Payment System:** Since launch of the BRIDGES data system, the BabyNet Payment System has been largely integrated, improving outdated payment processes and improving the timeliness of provider payments.

Improved Access for Families

When BabyNet eligibility staff were transferred by proviso from DHEC in 2011, they were accompanied by funding totaling less than 75% of their payroll cost, and without resources to support their housing, information technology, and other needs. Requiring office space around the state at minimal (or no) cost, First Steps forged partnerships with local school districts, a federally qualified health center, local First Steps partnerships and others to ensure the housing of this staff. While the agency was successful in placing this staff in temporary locations, these office spaces were not always ideally located for the

children and families BabyNet serves.

Since then, First Steps has been able to substantially improve these working conditions, securing improved office space for BabyNet offices statewide, and opening new locations in Sumter, Rock Hill, Georgetown, Walterboro and Myrtle Beach – providing improved access for families in the process.

Deployment of New Staffing Resources:

State-appropriations for new BabyNet system personnel have been deployed as follows:

- BabyNet System Point of Entry (SPOE) Offices:
 - Three new Supervisors
 - Three administrative assistants to process referrals of infants and toddlers
 - 12 new intake service coordinators to determine eligibility for BabyNet services
- BabyNet State Office:
 - One administrative assistant to improve customer service and support State System Point of Entry Supervisor, Provider Relations, and the BabyNet State Director.
 - One assistant BabyNet Director to support daily operations.
 - Three staff for monitoring of BabyNet Service Provider performance, including compliance with contractual obligations.

Other Improvements

- **Transition from Part C to Part B:** Federal technical assistance sought by First Steps has also resulted in creation of mechanisms for sharing transition data with the SC Department of Education's Office of Special Education Services for the purpose of program improvement; development of joint transition policies and guidance; and exploration of alternate pathways to teacher certification for BabyNet system personnel and other early childhood educators serving in non-traditional early childhood education settings.

- **Interagency Coordinating Council:** Each federal Part C grantee is to be supported by a State Interagency Coordinating Council (SICC) which provides advice to the lead agency, helps to review key documents, and supports the successful delivery of early intervention services statewide. After a prolonged period during which the terms of South Carolina's SICC members were largely vacant and/or expired, First Steps understands that new appointments will be made by Governor Haley in the coming weeks.
- **Autism Supports:** With support of the Centers for Disease Control Act Early State Team and in concert with MUSC and the SC Department of Disabilities and Special Needs, developed and implemented policies and procedures for presumptive eligibility of toddlers with Autism Spectrum Disorder, resulting in new identification of and early intensive behavioral intervention services to approximately 500 children per year since 2012.

First Steps remains strongly committed to the success of the BabyNet system and will continue to work in close collaboration with SC DHHS to ensure a smooth lead agency transfer.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

June 28, 2016

Honorable Dan Wuori, Ph.D.
Chief Program Officer
South Carolina First Steps to School Readiness
1300 Sumter Street
Concord Building, Suite 100
Columbia, South Carolina 29201

Dear Dr. Wuori:

I am writing to advise you of the U. S. Department of Education's (Department) 2016 determination under sections 616 and 642 of the *Individuals with Disabilities Education Act (IDEA)*. The Department has determined that South Carolina needs intervention in implementing the requirements of Part C of the *IDEA*. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2014 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2016 determination is based on the data reflected in the State's "2016 Part C Results-Driven Accountability Matrix" (RDA Matrix). The RDA Matrix is individualized for each State and consists of:

- (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors;
- (2) Results Components and Appendices that include scoring on Results Elements;
- (3) a Compliance Score and a Results Score;
- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) the State's Determination.

The RDA Matrix is further explained in a document, entitled "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2016: Part C" (HTDMD).

OSEP is continuing to use both results data and compliance data in making determinations in 2016, as it did for Part C determinations in 2015. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) For 2016, the Department's *IDEA* Part C determinations continue to include consideration of each

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State's Child Outcomes data, which measures how children who receive *IDEA* Part C services are improving functioning in three outcome areas that are critical to school readiness:

- positive social-emotional skills;
- acquisition and use of knowledge and skills (including early language/communication); and
- use of appropriate behaviors to meet their needs.

Specifically, the Department considered the data quality and the child performance levels in each State's Child Outcomes FFY 2014 data.

You may access the results of OSEP's review of your State's SPP/APR and other relevant data by accessing the SPP/APR module using your State-specific log-on information at osep.grads360.org. When you access your State's SPP/APR on the site, you will find, in Indicators 1 through 10, the OSEP Response to the indicator and any actions that the State is required to take. The actions that the State is required to take are in two places:

- (1) any actions related to the correction of findings of noncompliance are in the "OSEP Response" section of the indicator; and
- (2) any other actions that the State is required to take are in the "Required Actions" section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include an OSEP response and/or Required Actions.

You will also find all of the following important documents saved as attachments to the Progress Page:

- (1) the State's RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled "2016 Data Rubric Part C," which shows how OSEP calculated the State's "Timely and Accurate State-Reported Data" score in the Compliance Matrix;
- (4) a document entitled "Dispute Resolution 2014-15," which includes the *IDEA* section 618 data that OSEP used to calculate the State's "Timely State Complaint Decisions" and "Timely Due Process Hearing Decisions" scores in the Compliance Matrix; and
- (5) a Data Display, which presents certain State-reported data in a transparent, user-friendly manner and is helpful for the public in getting a broader picture of State performance in key areas.

As noted above and further explained in the enclosures to this letter, the Department has determined that South Carolina needs intervention in implementing the requirements of Part C of the *IDEA*. The Department identifies a State as needing intervention under *IDEA* Part C if its RDA Percentage is less than 60%. South Carolina's RDA Percentage is 56.25%.

Under *IDEA* sections 616(e)(2) and 642, if the Secretary determines a State to need intervention for three or more consecutive years, the Secretary must take one or more of the six enforcement actions identified in *IDEA* sections 616(e)(2)(B) and 642 and may take, under *IDEA* sections 616(e)(2)(A) and 642, one of the three enforcement actions identified in *IDEA* section 616(e)(1).

Because in 2016, South Carolina received a determination of Needs Intervention for the sixth consecutive year, the Secretary is taking the following enforcement action.

South Carolina must submit a corrective action plan (CAP) by August 1, 2016 to address three areas that contributed significantly to the State's 2016 determination: (1) the collection and reporting of valid and reliable data regarding the timely provision of early intervention services, consistent with 34 CFR §303.342(e); (2) compliance with the 45-day timeline requirements, consistent with 34 CFR §§303.310(a) and (b) and 303.342(a); and (3) correction of findings of noncompliance, consistent with IDEA section 635(a)(10)(A) and 34 CFR §§303.120 and 303.700(e).

Specifically, by August 1, 2016, the State must submit a CAP that sets forth:

- a description of the steps the State is taking to ensure that the data that the State collects for Indicator 1 regarding the timely provision of early intervention services are valid and reliable;
- a description of the steps the State is taking to improve compliance with the 45-day timeline requirements of Indicator 7;
- the status of correction of the 24 remaining FFY 2013 findings,
- The number of findings of noncompliance the State made during FFY 2014 (July 1, 2014 through June 30, 2015),
- The number of findings identified in FFY 2014 for which the State verified the noncompliance was corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance,
- The number of findings identified in FFY 2014 for which the State verified the noncompliance was corrected more than one year after the State's identification of noncompliance (i.e., "subsequent correction"), and
- For any 2013 and 2014 findings not corrected, the State's plan for ensuring full correction of those findings.

Further, with its FFY 2015 SPP/APR, due February 1, 2017, the State must provide OSEP with a report that includes:

- The State's analysis of the extent to which the State's FFY 2015 data for Indicator 1 are valid and reliable, and how the State made that determination;
- If the State's FFY 2015 data for Indicator 7 do not show compliance, the State's root cause analysis of the State's data and the additional steps that it is taking to improve compliance;
- The status of correction of any remaining FFY 2013 findings,
- The status of correction of any remaining FFY 2014 findings, and
- For any 2013 and 2014 findings not corrected, the State's plan for ensuring full correction of those findings.

As required by IDEA sections 616(e)(7) and 642 and 34 CFR §303.706, South Carolina must notify the public within the State that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on the State lead agency's Web site and distributing the notice to the media and through public agencies.

Pursuant to section 616(d)(2)(B) of the IDEA and 34 CFR §300.603(b)(2), a State that is determined to “need intervention” or “need substantial intervention,” and does not agree with this determination, may request an opportunity to meet with the Assistant Secretary to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Sue Swenson, Acting Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202 within 15 days of the date of this letter. The letter must include the basis for your request for a change in the State's determination.

State submissions of Phase II of the State Systemic Improvement Plan (SSIP) were due to OSEP by April 1, 2016. OSEP provided 60 days beyond the official February 1, 2016 SPP/APR due date to provide States with additional time to complete their Phase II submissions. However, OSEP did receive South Carolina's Phase II SSIP until April 22, 2016. OSEP appreciates the State's ongoing work on its SSIP and its efforts to improve results for infants and toddlers with disabilities and their families. We have carefully reviewed your submission and will provide feedback in the upcoming weeks. Additionally, OSEP will continue to work with your State as it develops Phase III of the SSIP, due April 3, 2017.

As a reminder, your State must report annually to the public, by posting on the State lead agency's web-site, on the performance of each early intervention service (EIS) program located in the State on the targets in the SPP as soon as practicable, but no later than 120 days after the State's submission of its FFY 2014 SPP/APR. In addition, your State must:

- (1) review EIS program performance against targets in the State's SPP/APR;
- (2) determine if each EIS program “meets the requirements” of Part C, or “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing Part C of the *IDEA*;
- (3) take appropriate enforcement action; and
- (4) inform each EIS program of its determination.

Further, your State must make its SPP/APR available to the public by posting it on the State lead agency's Web site. Within the next several days, OSEP will be finalizing a State Profile for your State that:

- (1) will be accessible to the public;
- (2) includes links to a PDF of the State's SPP/APR, including all of the State's and OSEP's attachments; and
- (3) the State may use to make its SPP/APR accessible to the public.

We will provide you with the link to that profile when it is live.

OSEP appreciates the State's efforts to improve results for infants and toddlers with disabilities and their families and looks forward to working with your State over the next year as we continue our important work of improving the lives of children with disabilities and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Brenda Wilkins, your OSEP State lead, at 202-245-6920.

Sincerely,

/s/ Ruth E. Ryder

Ruth E. Ryder
Acting Director
Office of Special Education Programs

cc: State Part C Coordinator