

ENCLOSURE C

SPECIAL CONDITIONS

I. Basis for Requiring Special Conditions

Background: On March 16, 1998, the U.S. Department of Education (Department) and DCPS entered into a Compliance Agreement pursuant to section 457 of the General Education Provisions Act. See 20 U.S.C. §1234f. DCPS achieved compliance in five of the eleven areas identified in the Compliance Agreement. The six remaining areas of noncompliance were included in DCPS's FFY 2001 Special Conditions set forth in Enclosure C attached to DCPS's November 6, 2001 grant award letter.

Current Status: OSEP has determined that DCPS remains out of compliance in four of the six areas identified in the FFY 2001 Special Conditions grant award letter. The basis for reaching this determination is as follows.

1. Initial Evaluations and Reevaluations

- (a) An initial evaluation that meets the requirements of sections 614(a)(1), (b), and (c) of Part B of IDEA must be completed for all children with disabilities, and an appropriate placement must be made within the maximum number of days established by DCPS's policy. According to data submitted by DCPS under the FFY 2001 Special Conditions, DCPS had not achieved the goal of ensuring that all initial evaluations were completed and placements made in a timely manner. At the end of the final reporting period, 204 initial evaluations and placements had not been completed in a timely manner.
- (b) A reevaluation that meets the requirements of sections 614(a)(2), (b), and (c) of Part B of IDEA must be completed for all children with disabilities no later than 36 months after the date on which the most previous evaluation or reevaluation was completed. According to data submitted by DCPS under the FFY 2001 Special Conditions, DCPS had not achieved the goal of ensuring that all reevaluations of children with disabilities were conducted in a timely manner. At the end of the final reporting period, 757 reevaluations had not been conducted in a timely manner.

2. Implementation of Due Process Hearing Decisions

Independent hearing officer determinations must be implemented within the time-frame prescribed by the hearing determination as required by sections 615 (f) and (i) of Part B of IDEA. According to data submitted by DCPS under the FFY 2001 Special Conditions, DCPS had not achieved the goal of ensuring that all due process hearing decisions were implemented within the timeframe prescribed by the hearing officer. At the end of the final reporting period, 434 hearing decisions had not been implemented within the time frame prescribed by the hearing officer.

3. Placement in the Least Restrictive Environment

All children with disabilities must be placed in the least restrictive environment appropriate to their individual needs, as required by section 612(a)(5)(A) of Part B of IDEA and 34 CFR §§300.550-300.556. During its March 26, 2001 compliance monitoring review of DCPS, OSEP collected data used to determine whether DCPS was ensuring that all children with disabilities were placed in the least restrictive environment. OSEP determined that children with disabilities are removed from the regular educational environment for reasons other than that the nature or severity of the disability, even with the use of supplementary aids and services, is such that education in regular classes cannot be achieved satisfactorily. OSEP found that DCPS was not ensuring that children with disabilities are placed in the least restrictive environment appropriate to their individual needs. According to information submitted by DCPS under the FFY 2001 Special Conditions, DCPS had not achieved the goal of ensuring that all children with disabilities are placed in the least restrictive environment appropriate to their individual needs.

4. Surrogate Parents

Procedures that meet the requirements of section 615(b)(2) of Part B of IDEA must be implemented to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State. OSEP found that while procedures have been developed for identifying children with disabilities who need surrogate parents as well as for training and appointing surrogate parents, they have not been effectively implemented. According to data submitted by DCPS under the FFY 2001 Special Conditions, DCPS had not identified all children with disabilities who need a surrogate parent and had not ensured that a qualified surrogate parent was appointed for all children with disabilities who needed one.

5. Alternate Assessments

The requirements that States ensure that children with disabilities participate in State and district-wide assessment systems; develop and administer alternate assessments, if necessary; and report publicly on the participation and performance of children with disabilities in State and district-wide assessments are crucial to ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139. The requirements regarding performance goals and indicators and the participation of children with disabilities in, and reporting on participation and performance of children with disabilities in regular assessments have been in effect since July 1, 1998; the requirements regarding reporting on alternate assessments have been in effect since July 1, 2000. According to the information reported to the Department in the District's Biennial Performance Report for the 2000-2001 school year, the District is not administering alternate assessments to all children with disabilities who cannot participate in the District-wide assessment program, and is not

reporting publicly, and to the Secretary, on the participation and performance of children with disabilities on alternate assessments as required by Part B of the Individuals with Disabilities Education Act (IDEA).

Therefore, the District has not complied with all the terms and conditions of its Federal Fiscal Year 2001 award under Part B of IDEA. Under the authority of the Education Department General Administrative Regulations, 34 CFR §80.12, the Department is imposing these Special Conditions on the District's Federal Fiscal Year 2002 awards under Part B of the IDEA.

II. Nature of the Special Conditions

The following Special Conditions are imposed on the District of Columbia Public Schools' (DCPS's) Part B grant awards for FFY 2002:

A. Initial Evaluations and Reevaluations

1. By the end of the first reporting period, DCPS must provide a written description of the process DCPS uses to schedule and complete timely initial evaluations and placements, and reevaluations, based on information available in the Special Education Tracking System (SETS)
2. DCPS must issue to OSEP four reports under the schedule detailed below which include the following information:

(a) Initial Evaluations

For each reporting period include:

- The children who, as of the end of the previous reporting period, had been referred for, but not provided, a timely initial evaluation and placement;
- The number of children referred for initial evaluation and placement during the reporting period;
- The number of children who have received timely initial evaluations and placements during the reporting period; and
- The number of children referred for initial evaluation and placement who have not received a timely initial evaluation and placement at the conclusion of the reporting period.

(b) Reevaluations

For each reporting period include:

- The children who, as of the end of the previous reporting period, had not been provided, a timely reevaluation;
- The number of children requiring reevaluation during the reporting period;

- The number of children who have been provided timely reevaluations during the reporting period; and
 - The number of children who had not been provided a timely reevaluation at the conclusion of the reporting period.
3. For each reporting period, if there is no progress in reducing the number of overdue initial evaluations and placements or reevaluations, DCPS must provide an explanation for this lack of progress and if necessary revise the procedures in A.1.

B. Implementation of Due Process Hearing Decisions

1. By the end of the first reporting period, DCPS must report to OSEP any remaining barriers to the timely implementation of hearing officer decisions and the steps being taken to remove those barriers.
2. DCPS must issue to OSEP four reports under the schedule detailed below which include the following information:
 - The number of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented in a timely manner;
 - The number of children receiving a hearing officer decision during the reporting period;
 - The number of children whose hearing officer determinations have been implemented in a timely manner during the reporting period; and
 - The number of children whose hearing officer determinations had not been implemented in a timely manner at the conclusion of the reporting period.
3. For each reporting period, if there is no progress in reducing the number of hearing officer decisions that have not been implemented in a timely manner, DCPS must provide an explanation for this lack of progress and if necessary revise the steps being taken under B.1.

C. Least Restrictive Environment

1. As part of the first quarterly report due on October 18, 2002, DCPS must describe the steps it will take to increase the numbers of children with disabilities served within regular classrooms (removed from regular class less than 21% of the school day) based on the individual needs of the child and to decrease the numbers of children with disabilities removed from the regular educational environment to only those children for whom the nature and severity of their disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. On a quarterly basis as outlined below, DCPS must report the placement patterns by disability and educational environment of children with disabilities by elementary, middle/junior and high schools.
2. As part of the first quarterly report due on October 18, 2002, DCPS must describe to OSEP its progress in developing new inclusive programs, or enhancing existing inclusive programs, to meet the needs of children with disabilities who are or who would otherwise attend segregated public and non-public day schools. Included in this report and each subsequent quarterly report must be: the number of children with disabilities referred to and placed in segregated public and non-public day programs during the reporting period; the number of children with disabilities placed in inclusive newly-created or enhanced DCPS programs designed to meet the needs of these children; and the number of children with disabilities removed from segregated public and non-public day programs and placed in more inclusive settings based on their individual needs.
3. DCPS must, on a quarterly basis under the schedule outlined below, provide OSEP with a list of newly-created inclusive preschool options for children with disabilities. In addition, DCPS must provide OSEP with the numbers of children who are identified as needing special education and related services, by DCPS after age three, or by DC Early Intervention Program before age three, and placed in these settings.

D. Surrogate Parent Procedures

1. DCPS must, on a quarterly basis as outlined below, report progress in identifying children with disabilities in need of surrogate parents and assigning qualified surrogate parents to represent the interests of these children. DCPS' quarterly reports must include the numbers of children identified during that reporting period who need surrogate parents and the number of children for whom a surrogate parent has been appointed.

2. For each reporting period, if there is no progress in reducing the number of children with disabilities identified who need surrogate parents but for whom a surrogate parent has not been appointed, DCPS must provide an explanation for this lack of progress and if necessary revise its surrogate parent procedures.

DUE DATES AND REPORTING PERIODS FOR QUARTERLY REPORTS UNDER A-D THAT DCPS MUST SUBMIT TO THE U.S. DEPARTMENT OF EDUCATION

DATES OF REPORTING PERIODS	DATE OF DCPS REPORT TO THE U.S. DEPARTMENT OF EDUCATION
July 1 – September 30, 2002	October 18, 2002
October 1 – December 31, 2002	January 17, 2003
January 1 – March 31, 2003	April 18, 2003
April 1 – May 31, 2003	June 13, 2003

E. Conducting and Reporting on Alternate Assessments

By May 30, 2003, DCPS must demonstrate that it is administering alternate assessments to all children with disabilities who cannot participate in District-wide assessments and reporting publicly on the participation and performance of children with disabilities in alternate assessments as required at 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139.

- a. By September 30, 2002, DCPS must submit a plan detailing the steps and timelines for administering alternate assessments and reporting publicly on the participation and performance of children with disabilities in alternate assessments by May 30, 2003. The plan must ensure that students with disabilities who take the alternate assessment are assessed in the same grades as non-disabled students and that the results of their assessments are reported in the same frequency and detail as non-disabled students.
- b. DCPS must submit progress reports on November 29, 2002, January 31, 2003, March 28, 2003 and the final submission due on May 30, 2003. The final submission that includes information on administering alternate assessments and reporting publicly on the participation and performance of children with disabilities in alternate assessments is to be submitted on the Biennial Performance Report format provided by OSEP. (This format is available at [http://www.ed.gov/offices/OSERS/OSEP/Monitoring/.](http://www.ed.gov/offices/OSERS/OSEP/Monitoring/))

III. Evidence Necessary for Conditions To Be Removed

The Department will remove the Special Conditions, if at any time prior to the expiration of the grant year, DCPS provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above.

IV. Method of Requesting Reconsideration

DCPS can write to Robert H. Pasternack, the Assistant Secretary for the Office of Special Education and Rehabilitative Services (OSERS), if it wishes the Department to reconsider any aspect of these Special Conditions. Any request of this sort should describe in detail the changes to the Special Conditions sought by DCPS and the reasons for those requested changes. The Special Conditions should be appended to all copies of your eligibility documents that you maintain, distribute, and make available to the public.

V. Submission of Reports

Reports must be submitted, in accordance with the time lines included in this enclosure, to:

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Office of Special Education Programs
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