

Enclosure E

Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to IDEA section 616(g) of Part B of the Individuals with Disabilities Education Act (IDEA or Part B) and 34 CFR §80.12, the Office of Special Education Programs (OSEP) is designating the District of Columbia (D.C.) as a “high risk” grantee and imposing Special Conditions on the District of Columbia, Office of the State Superintendent of Education’s (State’s, D.C.’s, or D.C. OSSE’s) Federal fiscal year (FFY) 2011 grant awards under IDEA.

The State did not meet the Special Conditions imposed on its FFY 2010 IDEA Part B grant award related to: timely initial evaluations and reevaluations; timely implementation of hearing officer determinations (HODs); timely correction of noncompliance; secondary transition requirements; and early childhood transition requirements. OSEP has imposed Special Conditions related to timely initial evaluations and reevaluations and timely implementation of HODs on D.C.’s IDEA Part B grant award since 2001. These issues were initially identified in the 1998- 2001 Compliance Agreement between D.C. and the U.S. Department of Education. OSEP has imposed Special Conditions on D.C.’s IDEA Part B grant award related to: timely correction of noncompliance since 2005; secondary transition requirements since 2009; and early childhood transition requirements since 2010.

Timely initial evaluations and reevaluations: An initial evaluation that meets the requirements of section 614(a)(1), (b), and (c) of the IDEA and 34 CFR §300.301(c)(1) must be completed for all children with disabilities, and an appropriate placement must be made within the maximum number of days established by the State’s policy.¹ See also, section 612(a)(7) of the IDEA. A reevaluation that meets the requirements of section 614(a)(2), (b), and (c) of the IDEA and 34 CFR §300.303 must be completed for each child with a disability no later than 36 months after the date on which

¹ Section 614(a)(1)(C)(i)(I) of the IDEA and 34 CFR §300.301(c)(1) require that an initial evaluation be conducted within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe. Section 38-2561.02 of the D.C. Code states that the District of Columbia must “assess or evaluate a student who may have a disability and who may require special education services within 120 days from the date that the student was referred for an evaluation or assessment.” Section 3005.2 of Chapter 30 of Title 5 of the D.C. Municipal Regulations states: “The IEP team shall conduct an initial evaluation of a child within a reasonable time of receiving a written referral and parental consent to proceed and within timelines consistent with Federal law and D.C. Code Section 38-2501(a).” (D.C. Code Section 38-2501(a) has been repealed and D.C. Code Section 38-2561.02 now addresses timeliness of evaluations.) Section 3013.1(c) specifies: “The LEA shall ensure that the educational placement decision for a child with a disability is made within timelines consistent with applicable local and Federal law.” The State’s “Part B Initial Evaluation/Reevaluation Policy,” dated March 22, 2010, states: “The LEA must complete an initial evaluation, including the determination of the eligibility of a child suspected of having a disability within 120 calendar days of receiving the written referral.” The State’s *Notice of Procedural Safeguards, Rights of Parents of Students with Disabilities*, revised January 2011, states: “Under District of Columbia law, the LEA must complete an initial evaluation of a child suspected of having a disability, including the determination of eligibility, within one hundred twenty (120) calendar days of receiving the written referral.” The document also states that the 120-day timeframe does not apply to an LEA if: (1) the parent repeatedly fails or refuses to produce the child for evaluation; (2) the parent fails or refuses to respond to a request for consent for the evaluation; or (3) the parent enrolls the child in a school of another LEA after the 120-day timeline has begun, but before the previous LEA has determined whether the child is a child with a disability. This special circumstance only applies if the new LEA is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and the new LEA agree to a specific time when the evaluation will be completed.

the previous evaluation or reevaluation was completed, unless the parent and the local educational agency (LEA) agree that a reevaluation is unnecessary.²

D.C. reported 58 percent compliance with timely initial evaluations and 82 percent compliance with timely reevaluations in its May 2, 2011 progress report. Only 14 percent and 43 percent of overdue initial evaluations and reevaluations, respectively, were completed (“the backlog”) during the February 2, 2011 through March 31, 2011 reporting period. In addition, D.C. reported that 416 children had not been provided a timely initial evaluation and 180 children had not been provided a timely reevaluation as of March 31, 2011. D.C. continues to demonstrate noncompliance with the requirements in IDEA sections 612(a)(7) and 614(a) through (c) and 34 CFR §§300.301(c)(1) and 300.303.

Timely implementation of HODs: Hearing officer determinations must be implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe set by the State, as required by section 615(f) and (i) of the IDEA. D.C. reported in its May 2, 2011 progress report that for the February 2, 2011 through March 31, 2011 reporting period, 73 percent of HODs were implemented in a timely manner and 39 percent of the backlog of HODs were implemented. In the State’s March 2, 2011 progress report, D.C. reported there were 11 children whose hearing officer determinations had not been implemented at the conclusion of the February 1, 2011 through March 31, 2011 reporting period. D.C. continues to demonstrate noncompliance with the requirements in IDEA section 615(f) and (i).

Timely correction of noncompliance: Section 612(a)(11) of the IDEA and 34 CFR §300.149 require States to ensure that each educational program for children with disabilities administered within the State is under the general supervision of individuals responsible for educational programs for children with disabilities in the State educational agency. Section 616(a)(1)(C) of the IDEA requires States to monitor implementation of Part B by LEAs. The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in 34 CFR §§300.600 through 300.602 and 300.606 through 300.608. See also 20 U.S.C. 1232d(b)(3). In exercising its monitoring responsibilities under §300.600(d), the State must ensure that when it identifies noncompliance with requirements of Part B by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State’s identification of the noncompliance (34 CFR §300.600(e)).

D.C. has provided documentation of its monitoring system, including the *State Monitoring and Compliance Manual (IDEA Part B)*, monitoring tool, copies of monitoring reports, and a log of monitoring activities the State conducted during FFY 2009, and from July 1, 2010 through April 22, 2011. D.C. has demonstrated that it has established a system of general supervision that identifies noncompliance in a timely manner using its different components, including a statewide database, State complaints, due process hearings, on-site monitoring, and LEA self-assessments. In addition, we recognize that D.C. has established policies and procedures for helping to ensure the correction of noncompliance identified through these activities. However, we conclude, and

²Section 614(a)(2) of the IDEA and 34 CFR §300.303 require that a reevaluation occur at least once every three years, unless the parents and the LEA agree that a reevaluation is unnecessary. The State’s “Part B Initial Evaluation/Reevaluation Policy,” dated March 22, 2010, states: “The LEA must hold a reevaluation meeting within three years of the date the previous initial evaluation or reevaluation was completed. The reevaluation meeting must be scheduled in time to allow the IEP team to conduct assessments, if necessary, and to reconvene within three years of the previous eligibility meeting.”

the State has acknowledged, that it is not yet able to demonstrate that noncompliance is corrected in a timely manner consistent with IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600(e), 20 U.S.C. 1232d(b)(3), and OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02).

Secondary transition: Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include: (1) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals, as required by section 614(d)(1)(A)(i)(VIII) of the IDEA and 34 CFR §300.320(b). The public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals. See 34 CFR §300.321(b)(1). To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, the public agency must invite the representative of any participating agency that is likely to be responsible for providing or paying for transition services. See 34 CFR §300.321(b)(3).

D.C. reported in its FFY 2009 APR and May 2, 2011 progress report that it utilized the secondary transition section of its comprehensive monitoring tool to complete the review of a random sample of IEPs. The monitoring tool incorporates all the components of the required measurement for Indicator 13. D.C. reported under Indicator 13 of its FFY 2009 Annual Performance Report (APR), that three percent of youth aged 16 and above had an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs; evidence that the student was invited to the IEP Team meeting where transition services are to be discussed; and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. In its May 2, 2011 progress report, D.C. reported that of the 100 IEPs of youth aged 16 reviewed during the February 2, 2011 through March 31, 2011 reporting period, 12 percent included the required secondary transition content. D.C. continues to demonstrate noncompliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b).

Early childhood transition: Children referred by Part C prior to age three, who are found eligible for Part B, must have an IEP developed and implemented by their third birthdays, as required by IDEA section 612(a)(9) and 34 CFR §300.124(b). D.C. reported under Indicator 12 of its FFY 2009 APR that 30.25 percent of children referred by Part C prior to age three, who are found eligible for Part B, have an IEP developed and implemented by their third birthdays. In the State's March 2, 2011 progress report (revised May 12, 2011), D.C. reported that for the period July 1, 2010 through March 31, 2011, 64.3 percent of children who were served in Part C and found eligible for Part B had an IEP developed and implemented by their third birthdays. While these data reflect progress from the previous year, D.C. continues to demonstrate noncompliance with the early childhood transition requirements in IDEA section 612(a)(9) and 34 CFR §300.124(b).

D.C.'s FFY 2009 APR Determination: As a result of D.C.'s compliance data reported for Indicator 12 (early childhood transition) and its longstanding noncompliance with IDEA requirements

related to timely initial evaluations and reevaluations, timely implementation of HODs and timely correction of noncompliance, D.C. received a “needs intervention” determination for the fifth consecutive year. The Department’s June 20, 2011 determination letter requires D.C., pursuant to IDEA section 616(e)(2)(B)(i), to submit a corrective action plan (CAP) that is reasonably designed to address each of the areas in which the State needs intervention. In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Department directed D.C. to use \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e) to carry out initial evaluations and reevaluations for children who have not been provided a timely initial evaluation or reevaluation (i.e., to reduce the backlog of overdue initial evaluations and reevaluations). The Secretary authorizes D.C. to use the otherwise directed funds for other purposes if the State elects to direct LEAs that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations, to use \$500,000 of their FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.

The failure to ensure timely initial evaluations and reevaluations was also factor in the State’s FFY 2008 APR determination. Pursuant to IDEA section 616(e)(1)(B) and (2)(A), in its June 3, 2010 determination, the Department directed D.C. to use \$500,000 of its FFY 2010 State-level funds under IDEA section 611(e) to address the longstanding noncompliance with the requirements to ensure timely initial evaluations and reevaluations. The FFY 2010 Special Conditions required D.C. to “provide documentation to OSEP that demonstrates that D.C. OSSE has used \$500,000 of FFY 2010 State-level funds under IDEA section 611(e) and/or has directed LEAs to use FFY 2010 Part B funds to reduce the backlog.” On May 23, 2011, D.C. provided a report on the status of the State’s use of \$250,000 of its FFY 2010 State-level funds under IDEA section 611(e) and the District of Columbia Public Schools’ (DCPS) use of \$250,000 of the LEA’s FFY 2010 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. Based on the information provided in the report, OSEP concludes that D.C. has not yet provided documentation demonstrating that \$250,000 of the State’s FFY 2010 State-level funds under IDEA section 611(e) and \$250,000 of DCPS’ FFY 2010 IDEA Part B funds have been used to reduce the backlog. Because D.C. did not provide the required documentation, the Department’s June 20, 2011 letter requires D.C. to submit reports that contain specific information on scheduled dates that address D.C.’s use of \$250,000 of its FFY 2010 State-level funds under IDEA section 611(e) and \$250,000 of DCPS’ FFY 2010 IDEA Part B funds to reduce the backlog.

Based on the above, OSEP imposes the following Special Conditions on D.C.’s FFY 2011 IDEA Part B grant award to ensure that D.C. corrects the areas in which the Department has determined the State did not meet the FFY 2010 Special Conditions and the areas that affected the State’s needs intervention determination.

2. Nature of the Special Conditions

The State must comply with the following Special Conditions:

- a. **CAP:** As directed in OSEP’s June 20, 2011 FFY 2009 SPP/APR response letter, D.C. must submit a CAP that ensures the State can: (1) demonstrate compliance with the requirement to ensure children referred by Part C prior to age three, who are found eligible for Part B, have an IEP developed and implemented by their third birthdays (IDEA section 612(a)(9) and 34 CFR §300.124(b)); (2) demonstrate that it has a general supervision system that is reasonably designed to effectively correct noncompliance in a timely manner (IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, 20 U.S.C. 1232d(b)(3), and OSEP Memo 09-02); (3)

demonstrate compliance with the requirement to implement HODs in a timely manner (IDEA section 615(f) and (i)); and (4) demonstrate compliance with the requirement to conduct timely initial evaluations and reevaluations (IDEA sections 612(a)(7) and 614(a) through (c) and 34 CFR §§300.301(c)(1) and 300.303). Because D.C. did not meet the Special Condition imposed on its FFY 2010 IDEA Part B grant award related to secondary transition, D.C. must also address in the CAP, how the State can demonstrate compliance with the requirement that IEPs for youth aged 16 and above include required secondary transition content; the student is invited to the IEP Team meeting where transition services are to be discussed; and if appropriate, a representative of any participating agency is invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority (IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b)).

D.C. must submit its CAP to OSEP by August 1, 2011. The CAP must include: (1) a description of the specific actions the State will take to address each of the five areas specified above; (2) the projected timelines for completing each of the actions; (3) the name of the party responsible for implementing each action; and (4) a description of the evidence D.C. will submit to OSEP to demonstrate that the action has been completed.

- b. **CAP Progress Reports:** D.C. must report on the status of implementation of the CAP in accordance with the schedule specified below:

	CAP Progress Report Due Date	Reporting Period
First CAP Progress Report	November 1, 2011	April 1, 2011 – September 30, 2011
Second CAP Progress Report	February 1, 2012	October 1, 2011 – December 31, 2011
Third CAP Progress Report	May 1, 2012	January 1, 2012 – March 31, 2012

In addition to reporting on implementation of the CAP, D.C. must also submit the specific data and other information as described below:

- (A) Demonstrate compliance with the requirement to conduct timely initial evaluations and reevaluations

With each of the three CAP progress reports, the State must report the following information:

- (1) Initial Evaluations
 - (a) the number of children who, as of the end of the previous reporting period had been referred for, but not provided a timely initial evaluation and placement;
 - (b) the number or children referred for initial evaluation and placement whose initial evaluation and placement became overdue during the reporting period;
 - (c) the number of children from (a) and (b) above, who were provided initial evaluations and placements during the reporting period;

- (d) the number of children who had not been provided a timely initial evaluation and placement at the conclusion of the reporting period;
- (e) the average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue;
- (f) the percent of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period that were conducted in a timely manner;
- (g) the percent of children (a) who, as of the end of the previous reporting period had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period, that were provided initial evaluations and placements during the reporting period. (To calculate the percentage use data reported above in (A)(1): (c) divided by (a) + (b) times 100); and
- (h) the reasons for the delays in conducting initial evaluations in a timely manner and a description of the actions the State is taking to address the noncompliance.

(2) Reevaluations

- (a) the number of children who, as of the end of the previous reporting period had not been provided a timely triennial reevaluation;
- (b) the number of children whose triennial reevaluation became overdue during the reporting period;
- (c) the number of children from (a) and (b) above, who had been provided triennial reevaluations during the reporting period;
- (d) the number of children who had not been provided a timely triennial reevaluation at the conclusion of the reporting period;
- (e) the average number of days the triennial reevaluations that had not been provided in a timely manner were overdue;
- (f) the percent of triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period that were conducted in a timely manner;
- (g) the percent of children (a) who, as of the end of the previous reporting period had not been provided a timely triennial reevaluation (backlog) and (b) whose triennial reevaluation became overdue during the reporting period, that were provided triennial reevaluations during the reporting period. (To calculate the percentage, use the data reported above in (A)(2): (c) divided by (a) + (b) times 100); and
- (h) the reasons for the delays in conducting reevaluations in a timely manner and a description of the actions the State is taking to address the noncompliance.

- (B) Demonstrate compliance with the requirement to implement HODs in a timely manner³
- (1) With each of the three CAP progress reports, the State must report the following information:
 - (a) the number of children whose HODs, as of the end of the previous reporting period had not been implemented within the timeframe established by the hearing officer or by the State;
 - (b) the number of children whose HODs had not been implemented within the timeframe established by the hearing officer or by the State (became overdue) during the reporting period;
 - (c) the number of children from (a) and (b) whose HODs were implemented during the reporting period;
 - (d) the number of children whose HODs had not been implemented in a timely manner at the conclusion of the reporting period;
 - (e) the percent of HODs that were implemented in a timely manner during the reporting period;
 - (f) the percent of children whose HODs, as of the end of the previous reporting period, had not been implemented within the required timeframe (backlog) and whose HODs had not been implemented within the required timeframe during the reporting period that had HODs implemented during the reporting period. (To calculate the percentage, use data reported in (B)(1) above: (c) divided by (a) + (b) times 100); and
 - (g) the reasons for the delays in implementing HODs in a timely manner and a description of the actions the State is taking to address the noncompliance.
- (C) Demonstrate that the State has a general supervision system that is reasonably designed to effectively correct noncompliance in a timely manner
- (1) With the first CAP progress report, due November 1, 2011, D.C. must provide the information specified below:
 - (a) the number of findings of noncompliance D.C. made during FFY 2009 (July 1, 2009 through June 30, 2010);
 - (b) the number of findings included in (C)(1)(a) 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;
 - (c) the number of findings included in (C)(1)(a) for which the State verified the noncompliance was corrected more than one year after the State's identification of the noncompliance (i.e., "subsequent correction");
 - (d) a description of the actions taken to verify the correction of noncompliance to ensure that each LEA with noncompliance: (1) is correctly implementing the

³ For purposes of the FFY 2011 Special Conditions, "hearing officer determinations" does not include settlement agreements and the data are calculated on a per child basis, not per HOD in cases where the same child has more than one HOD.

specific regulatory requirements (i.e., achieved 100 percent compliance) based on a review of updated data, such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA consistent with OSEP Memo 09-02; and

- (e) a description of the actions the State has taken to address any remaining findings of noncompliance reported in (D)(1)(a) that were not corrected.
- (2) In lieu of providing data with the second CAP progress report, due February 1, 2012, D.C. must report FFY 2010 actual target data for Indicator 15 (identification and correction of noncompliance) consistent with the required measurement and instructions in its FFY 2010 APR, due February 1, 2012. D.C. must also address all of the issues related to Indicator 15 identified in OSEP's June 20, 2011 response to the State's FFY 2009 SPP/APR submission.
 - (3) With its third CAP progress report, due May 1, 2012, D.C. must provide the information specified below:
 - (a) the number of findings of noncompliance D.C. made during FFY 2010 (July 1, 2010 through June 30, 2011);
 - (b) the number of findings included in (C)(3)(a) 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;
 - (c) the number of findings included in (C)(3)(a) for which the State verified the noncompliance was corrected more than one year after the State's identification of the noncompliance (i.e., "subsequent correction");
 - (d) the number of findings reported in (C)(3)(a) for which the one year timeline for correction has not yet expired;
 - (e) a description of the actions taken to verify the correction of noncompliance to ensure that each LEA with noncompliance: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100 percent compliance) based on a review of updated data, such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA consistent with OSEP Memo 09-02; and
 - (f) a description of the actions the State has taken to address any findings of noncompliance reported in (C)(3)(a) that were not corrected within one year of the State's identification of the noncompliance.
- (D) Demonstrate compliance with secondary transition requirements

For each of the three CAP reporting periods, D.C. must:

- (1) select a new random sample of at least 100 IEPs of youth aged 16 and above to be reviewed for IEP secondary content during the reporting period;
- (2) report, of the student records reviewed, consistent with the required measurement for Indicator 13, the number and percent of youth aged 16 and above with an IEP

that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority; and

- (3) provide an explanation of the progress or slippage that occurred for the reporting period and a description of the actions the State is taking to address any noncompliance with secondary transition requirements.

(E) Demonstrate compliance with early childhood transition requirements

- (1) With its first CAP progress report, due November 1, 2011, D.C. must provide a preliminary report of the State's FFY 2010 (July 1, 2010 through June 30, 2011) actual target data for Indicator 12. The State's preliminary data must be reported consistent with the required measurement and instructions for the FFY 2010 SPP/APR submission. This includes reporting the range of days beyond the third birthday when eligibility was determined and the IEP developed and the reasons for the delays.
- (2) With its second CAP progress report, due February 1, 2012, D.C. must report the percent of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays for the period July 1, 2011 through December 31, 2011. D.C. must also indicate the range of days beyond the third birthday when eligibility was determined and the IEP developed and the reasons for the delays.
- (3) With its third CAP progress report, due May 1, 2012, D.C. must report the percent of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays for the period January 1, 2012 through March 31, 2012. D.C. must also indicate the range of days beyond the third birthday when eligibility was determined and the IEP developed and the reasons for the delays.

- c. **Directed Use of State-Level IDEA Section 611(e) Funds:** As directed in OSEP's June 20, 2011 FFY 2009 SPP/APR response letter, D.C. must use \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e) to carry out initial evaluations and reevaluations for children who have not been provided a timely initial evaluation or reevaluation (i.e., to reduce the backlog of overdue initial evaluations and reevaluations). The Secretary authorizes D.C. to use the otherwise directed funds for other purposes if D.C. elects to direct LEAs that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations, to use \$500,000 of their FFY 2011 Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.

To ensure that D.C. can reduce the backlog of overdue initial evaluations and reevaluations within one year, D.C. must accelerate the implementation of corrective measures and expedite

the use of the directed FFY 2011 IDEA Part B funds. Based on the following timeline, the Department requires D.C. to ensure that \$500,000 of its FFY 2011 IDEA Part B funds are used by July 1, 2012. D.C. must also report on the State's use of \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) and the \$250,000 of DCPS' FFY 2010 IDEA Part B funds to reduce the backlog as specified below:⁴

1. On August 1, 2011, D.C. must report whether it intends to: (1) use \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e) to carry out initial evaluations and reevaluations for children who have not been provided a timely initial evaluation or reevaluation (i.e., to reduce the backlog of overdue initial evaluations and reevaluations); (2) direct those LEA(s) that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations to use \$500,000 of their FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations; or (3) use a portion of its FFY 2011 State-level funds, and direct those LEA(s) that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations to use a portion of their FFY 2011 IDEA Part B funds, to reduce the backlog of overdue initial evaluations and reevaluations (the combined amount of State-level and LEA-level FFY 2011 IDEA Part B funds must total \$500,000).

In addition, with its August 1, 2011 report, D.C. must provide a proposed spending plan on how the FFY 2011 State-level funds under IDEA section 611(e) will be used by July 1, 2012 to reduce the backlog of overdue initial evaluations and reevaluations. The proposed spending plan must include: (1) the activities that will be carried out with these funds; (2) the costs associated with each of the activities; (3) a projected timeline for using the funds to pay the costs associated with each of the activities that demonstrates that the funds will be used by July 1, 2012; and (4) an explanation of how the activities will result in the reduction of the backlog. D.C. must also describe the documentation that it will provide to demonstrate that it has used: (1) \$250,000 of its FFY 2010 State-level funds under IDEA section 611(e) and \$250,000 of DCPS' FFY 2010 IDEA Part B funds to reduce the backlog; and (2) \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e), and/or the portion of FFY 2011 IDEA Part B funds it has directed LEA(s) to use, to carry out the activities described in the State's and/or LEA's spending plan.

2. On November 1, 2011, D.C. must provide evidence it has directed the use of funds, as appropriate, and submit a proposed spending plan that includes the four components described above for the State-level spending plan for any LEA(s) directed to use FFY 2011 IDEA Part B funds to reduce the backlog. D.C. must also provide: (1) the amount of the \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) and the \$250,000 of DCPS' FFY 2010 IDEA Part B funds that were used from July 1, 2010 through September 30, 2011 to reduce the backlog; (2) documentation that the State and DCPS used those FFY 2010 IDEA Part B funds to reduce the backlog; (3) the amount of the State's and/or LEA's FFY 2011 IDEA Part B funds that were used from July 1, 2011 through September 30, 2011 to carry out the activities described in the State's and/or LEA's spending plan; and (4) documentation that the State and/or LEA used those FFY

⁴ OSEP will use the State-reported data required in section b. (A) of these Special Conditions when determining whether the State meets the benchmark targets for reducing the backlog of initial evaluations and reevaluations.

2011 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.⁵ The State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's May 2, 2011 progress report by 25 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's May 2, 2011 progress report by 25 percent.⁶

3. On February 1, 2012, D.C. must provide: (1) the amount of the \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) and the \$250,000 of DCPS' FFY 2010 IDEA Part B funds that were used from October 1, 2011 through December 31, 2011 to reduce the backlog; (2) documentation that the State and DCPS used those FFY 2010 IDEA Part B funds to reduce the backlog; (3) the amount of the State's and/or LEA's FFY 2011 IDEA Part B funds that were used from October 1, 2011 through December 31, 2011 to carry out the activities described in the State's and/or LEA's spending plan; and (4) documentation that the State and/or LEA used those FFY 2011 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan. The State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's November 1, 2011 progress report by 50 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's November 1, 2011 progress report by 50 percent.
4. On May 1, 2012, D.C. must provide: (1) the amount of the \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) and the \$250,000 of DCPS' FFY 2010 IDEA Part B funds that were used from January 1, 2012 through March 31, 2012 to reduce the backlog; (2) documentation that the State and DCPS used those FFY 2010 IDEA Part B funds to reduce the backlog; (3) the amount of the State's and/or LEA's FFY 2011 IDEA Part B funds that were used from January 1, 2012 through March 31, 2012 to carry out the activities described in the State's and/or LEA's spending plan; and (4) documentation that the State and/or LEA used those FFY 2011 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan. The State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's February 1, 2012 progress report by 75 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's February 1, 2012 progress report by 75 percent.
5. On August 1, 2012, D.C. must provide: (1) the amount of the \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) and the \$250,000 of DCPS' FFY 2010 IDEA Part B funds that were used from April 1, 2012 through June 30, 2012 to reduce the backlog; (2) documentation that the State and DCPS used those FFY 2010 IDEA Part B funds to reduce the backlog; (3) the amount of the State's and/or LEA's FFY 2011 IDEA Part B funds that were used from April 1, 2012 through June 30, 2012 to carry out the activities described in the State's and/or LEA's spending plan; and (4) documentation that the State and/or LEA used those FFY 2011 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan. The State must demonstrate that it has: (1)

⁵ In the event that the Department determines that D.C. and DCPS have fulfilled the requirement to use the FFY 2010 IDEA Part B funds, the Department shall notify D.C. that it is no longer necessary to report on the use of those funds. The Department expects that D.C. and DCPS will use these funds as soon as possible, and in no case later than July 1, 2012.

⁶ OSEP will take into consideration D.C.'s submission of amended data to allow for "late data entry or data correction adjustments," as appropriate.

reduced the number of children with overdue initial evaluations reported in the State's May 1, 2012 progress report by 95 percent or more; and (2) reduced the number of children with overdue reevaluations reported in the State's May 1, 2012 progress report by 95 percent or more.⁷

- d. **FFY 2010 SPP/APR:** D.C. must submit its FFY 2010 SPP/APR to OSEP, due February 1, 2012. D.C. must report consistent with the required measurement and instructions, FFY 2010 data for all indicators and must address all issues identified in OSEP's June 20, 2011 response to the State's FFY 2009 SPP/APR submission.

3. Evidence Necessary for Conditions to be Removed

The Department will remove these Special Conditions if, at any time prior to the expiration of the FFY 2011 grant year, the State provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above.

4. Method of Requesting Reconsideration

The State can write to OSEP's Director, Dr. Melody Musgrove, if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

5. Submission of Reports

D.C. must submit all reports required under these Special Conditions to:

Lisa M. Pagano
U.S. Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs-MSIP
550 12th Street, S.W., Room 4174
Washington, D.C. 20202 or by e-mail to: lisa.pagano@ed.gov

⁷ OSEP recognizes that the August 1, 2012 due date for reporting this information occurs after the FFY 2011 grant period (July 1, 2011 through June 30, 2012). However, since the data required for the August 1, 2012 progress report are based on activities carried out during FFY 2011, we are including this reporting requirement in these Special Conditions. When reporting on August 1, 2012, D.C. must provide the data required in section b. (A) for the period of April 1, 2012 through June 30, 2012.