

Enclosure C

The District of Columbia IDEA Part C FFY 2011 Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to IDEA sections 616(g) and 642 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 award under Part C of the Individuals with Disabilities Education Act (IDEA Part C). These Special Conditions are to ensure that the D.C. OSSE identifies and corrects findings of noncompliance with IDEA Part C requirements as soon as possible, but not later than one year from identification, as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501(b), and verifies timely correction of noncompliance, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02).

The requirements to ensure identification and timely correction were the subject of Special Conditions on D.C.’s FFY 2008, 2009 and 2010 Part C grant awards. The D.C. OSSE has not submitted sufficient information to demonstrate that it identifies and corrects findings of noncompliance with IDEA Part C requirements as soon as possible, but not later than one year from identification, and verifies timely correction of noncompliance, consistent with OSEP Memo 09-02. Specifically, the D.C. OSSE reported in its FFY 2009 Annual Performance Report (APR) and Special Conditions progress reports that it had corrected the three findings of noncompliance identified in FFY 2008 and had instituted a new system in FFY 2009, under which system the D.C. OSSE’s Quality Assurance and Monitoring (QAM) unit is responsible for conducting monitoring activities for D.C.’s Part C program.

Additionally, OSEP’s March 29, 2011 response to the D.C. OSSE’s February 1, 2011 progress report required the D.C. OSSE to document, in addition to the data collected for APR purposes, how it reviews all data that it has received since the last time it examined data from the database when making compliance decisions. In the May 2, 2011 progress report, the D.C. OSSE provided a description of the procedures in the Part C Monitoring Manual and Workbook that have been updated to clarify that the files that will be reviewed to verify correction of early intervention (EI) program level noncompliance will not be the files that were examined during the first file review process. The D.C. OSSE stated “these procedures result in OSSE’s review of all data that it has received since the last time it examined data from the data base when making compliance decisions”. OSEP concludes that this description does not address how the D.C. OSSE reviews data received outside of the fourth quarter (4/1-6/30) for the purpose of identifying noncompliance with Part C of the IDEA.

For these reasons, and to ensure that the D.C. OSSE timely identifies and corrects noncompliance with IDEA Part C requirements, OSEP is imposing these Special Conditions on D. C.’s FFY 2011 IDEA Part C grant award.

2. Nature of the Special Conditions

Pursuant to these Special Conditions, the D.C. OSSE must provide data to OSEP demonstrating that the State identifies and timely corrects noncompliance as soon as possible but in no case later than one year from identification, as required by IDEA

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section 635(a)(10)(A) and 34 CFR §303.501(b) and verifies that timely correction, consistent with OSEP Memo 09-02.

Progress Reports: The D.C. OSSE must submit three progress reports with the reporting periods and timelines specified below. The data must be submitted as follows:

- a) In the first Progress Report due October 15, 2011, the D.C. OSSE must provide: (1) a list of all findings issued in FFY 2009 (July 1, 2009 through June 30, 2010) and FFY 2010 (July 1, 2010 through June 30, 2011); (2) a copy of all monitoring reports issued to early intervention service (EIS) providers and programs for any finding of noncompliance with Part C requirements identified in FFYs 2009 and 2010, including findings of noncompliance with the requirements of Indicators 1, 7, and 8; (3) correction data (through September 30, 2011) for all findings identified in FFY 2009; (4) for each of these findings reported as corrected, a description of the actions that it took to verify that each EIS program: (i) is correctly implementing the specific regulatory requirements based on a review of updated data such as data subsequently collected through on-site monitoring or a data system and (ii) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP-Memo 09-02; and (5) clarification of how it reviews all data that it has received since the last time it examined data from the database when making compliance decisions.
- b) In the second Progress Report, due by February 1, 2012 with its FFY 2010 APR, the D.C. OSSE must provide: (1) updated correction data (through December 31, 2011) for all findings identified by the State in FFY 2009; (2) for each of these findings reported as corrected, a description of the actions taken to verify that noncompliance was corrected consistently with OSEP Memo 09-02; (3) the information required by the measurement for SPP/APR Indicator 9; and (4) all of the information required by Response Table attached to OSEP's June, 20, 2011 letter.
- c) In the Final Progress Report due May 7, 2012, the D.C. OSSE must provide: (1) a list of all findings issued from July 1, 2011 through April 15, 2012, including findings of noncompliance with the requirements of Indicators 1, 7, and 8; (2) a copy of all monitoring reports issued to EIS providers and programs for any finding of noncompliance with Part C requirements identified in FFY 2011, including findings of noncompliance with the requirements of Indicators 1, 7, and 8; (3) updated correction data (through April 15, 2012) for all outstanding findings identified by the State in FFY 2009 and for all findings identified by the State in FFY 2010 for which the one-year timeline for correction has expired; and (4) for each of these findings reported as corrected, a description of the actions taken to verify that noncompliance was corrected consistently with OSEP Memo 09-02.

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3. 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, the D.C. OSSE provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require the D.C. OSSE to submit: data and information demonstrating that it identifies and corrects findings of noncompliance with IDEA Part C requirements as soon as possible, but not later than one year from identification, as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501(b) and verifies timely correction of noncompliance, consistent with OSEP Memo 09-02.

4. Method of Requesting Reconsideration

The D.C. OSSE can write to OSEP's Director, Melody Musgrove, Ed.D. at the address below, 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 D.C. OSSE and the reasons for those requested changes.

5. Submission of Reports

All reports that are required to be submitted by the D.C. OSSE to the Department under the Special Conditions must be submitted to:

U.S. Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs-MSIP
Attn.: Kimberly Mitchell
550 12th Street, S.W., Room 4010
Washington, D.C. 20202 and by email to: Kimberly.Mitchell@ed.gov