

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) 2012 grant award under IDEA Part B.

The State did not meet the Special Conditions imposed on its FFY 2011 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 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

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.) The State’s “Part B Initial Evaluation/Reevaluation Policy,” dated March 22, 2010, states: “The [local educational agency] 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.

disability no later than 36 months after the date on which the previous evaluation or reevaluation was completed, unless the parent and the LEA agree that a reevaluation is unnecessary.²

D.C. reported in its May 1, 2012 progress report, amended May 15, 2012, that for the January 1, 2012 through March 31, 2012 reporting period, 94 percent of initial evaluations were provided in a timely manner and that 44 children had not been provided a timely initial evaluation at the end of the reporting period. In the State's May 1, 2012 progress report, amended May 15, 2012, D.C. reported that 89 percent of children were provided a timely reevaluation and 48 children had not been provided a timely reevaluation at the end of the reporting period. D.C. exceeded the required percentage for reducing the backlog of overdue initial evaluations and reevaluations set forth in in the Department's June 20, 2011 determination letter for the November 1, 2011 reporting period, but did not meet the required percentages for the February 1, 2012 and May 1, 2012 reporting periods. In its May 1, 2012 progress report, amended May 15, 2012, D.C. reported that it reduced the number of children in the backlog whose initial evaluations were overdue from the number of such children it reported in its February 1, 2012 progress report, by 29 percent. The State reported that it reduced the number of children in the backlog whose reevaluations were overdue from the number of such children it reported in its February 1, 2012 progress report by 25 percent. Therefore, while D.C. has made some progress, the State continues to demonstrate noncompliance with the timely initial evaluation and reevaluation 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 1, 2012 progress report, amended May 15, 2012, that for the January 1, 2012 through March 31, 2012 reporting period, 26 percent of HODs were implemented in a timely manner and 36 percent of the backlog of HODs were implemented. In the State's May 1, 2012 progress report, amended May 15, 2012, D.C. reported the number of children in the backlog of HODs not timely implemented was 57 at the conclusion of the February 1, 2012 through March 31, 2012 reporting period. D.C. continues to demonstrate noncompliance with the requirements in IDEA section 615(f) and (i) to ensure timely implementation of due process decisions.

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) and 34 CFR §300.600 of the IDEA require 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)(E). In exercising its monitoring responsibilities under §300.600(d), the State must ensure that when it identifies noncompliance with requirements of Part

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."

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. reported in its May 1, 2012 progress report, amended May 15, 2012, that 2,512 of the 4,166 findings of noncompliance identified in FFY 2010, for which the one-year timeline has expired, were corrected in a timely manner (60.3 percent). The State attributed the slippage in compliance from the timely correction rate for FFY 2008 findings (98 percent) and FFY 2009 findings (81.29 percent) to the increased percentage of findings made through monitoring activities rather than dispute resolution processes. OSEP concludes, and the State recognizes, that while it has increased the number of findings identified using all of the components of its general supervision system, including a statewide database, on-site monitoring, and LEA self-assessments, 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)(E), 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 prior 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 under Indicator 13 of its FFY 2010 Annual Performance Report (APR), that 6.75 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 were 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 1, 2012 progress report, amended May 15, 2012, D.C. reported that of the 100 IEPs of youth aged 16 reviewed for the February 1, 2012 through March 31, 2012 reporting period, 41 percent included the required secondary transition content. While these data reflect some progress from the FFY 2010 data, D.C. continues to report very low levels of compliance 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 2010 APR, that 62.4 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

FFY 2011 Special Conditions progress reports, D.C. reported that for the July 1, 2011 through March 31, 2012 reporting period, 85.3 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 FFY 2010 data, 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 2010 APR Determination: As a result of D.C.'s very low compliance data reported for Indicator 13 (secondary transition) and its longstanding noncompliance with the IDEA requirements related to timely initial evaluations and reevaluations, timely implementation of HODs, and timely correction of noncompliance that the Department has had to require that D.C. address for multiple years with various enforcement actions, D.C. received a "needs intervention" determination for the sixth consecutive year. The Department's June 28, 2012 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: (1) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to further reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements. The Department authorizes D.C. to use the otherwise directed funds for other purposes if the State elects to direct LEAs that demonstrated noncompliance with these requirements to use: (1) \$250,000 of their FFY 2012 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of their FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements.

The failure to ensure timely initial evaluations and reevaluations was also a factor in the State's FFY 2008 and FFY 2009 APR determinations. Pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Department directed D.C. to use \$500,000 of its FFY 2010 and FFY 2011 State-level funds under IDEA section 611(e) to carry out initial evaluations and reevaluations for children who had not been provided a timely initial evaluation or reevaluation (i.e., to reduce the backlog of overdue initial evaluations and reevaluations). The Department authorized D.C. to use the otherwise directed funds for other purposes if the State elected to direct LEAs that demonstrated noncompliance with the requirements to conduct timely initial evaluations and reevaluations, to use \$500,000 of their FFY 2010 and FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.

For FFY 2010, the State directed the District of Columbia Public Schools (DCPS) to use \$250,000 of its FFY 2010 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. D.C. reported it would use \$250,000 of its FFY 2010 State-level funds under IDEA section 611(e) to support DCPS in securing additional contracted evaluators. Because the State had not satisfactorily demonstrated as of May 23, 2011, that DCPS had used \$250,000 of the State's FFY 2010 State level funds under IDEA section 611(e) and \$250,000 of the LEA's FFY 2010 funds to reduce the backlog, OSEP's June 20, 2011 determination letter and the FFY 2011 Special Conditions required that the State continue to report on the use of the FFY 2010 funds.

For FFY 2011, D.C. directed DCPS to use \$500,000 of the LEA's FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. In the May 1, 2012 progress report, amended May 15, 2012, the State provided a report on the status of DCPS' use of: (1)

\$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; and (2) \$500,000 of DCPS’ FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. The State reported that as of May 15, 2012, DCPS had used \$250,000 of the LEA’s directed FFY 2010 IDEA Part B funds and \$238,126 of the LEA’s directed FFY 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. The State provided an explanation of how DCPS would use the remaining \$250,000 of the directed FFY 2010 State-level funds under IDEA section 611(e) and the remaining \$261,874 of the LEA’s directed FFY 2011 IDEA Part B funds by July 1, 2012.

Based on the above, OSEP imposes the following Special Conditions on D.C.’s FFY 2012 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 2011 Special Conditions and the areas that affected the State’s FFY 2010 APR determination of needs intervention.

2. **Nature of the Special Conditions**

The State must comply with the following Special Conditions:

- a. **CAP:** As directed in OSEP’s June 28, 2012 FFY 2010 SPP/APR response letter, D.C. must submit a CAP that ensures the State can: (1) demonstrate compliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b); (2) demonstrate that it has a general supervision system that is reasonably designed to effectively correct noncompliance in a timely manner as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600(e), 20 U.S.C. 1232d(b)(3)(E), and OSEP Memo 09-02; (3) demonstrate compliance with the requirement to implement HODs in a timely manner as required by IDEA section 615(f) and (i); and (4) demonstrate compliance with the requirement to conduct timely initial evaluations and reevaluations as required by 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 2011 IDEA Part B grant award related to early childhood transition, D.C. must also address in the CAP how the State can demonstrate compliance with the requirement that 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. must submit its CAP to OSEP by August 1, 2012. 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, 2012	April 1, 2012 – September 30, 2012 ³

³ For the first reporting period, the State must provide the information required in section 2.b.(A) (timely initial evaluations and reevaluations) for the period July 1, 2012 through September 30, 2012.

Second CAP Progress Report	February 1, 2013	October 1, 2012 – December 31, 2012
Third CAP Progress Report	May 1, 2013	January 1, 2013 – March 31, 2013

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.
- (b) The number or children referred for initial evaluation whose initial evaluation became overdue during the reporting period.
- (c) The number of children from (a) and (b) above, who were provided initial evaluations during the reporting period.
- (d) The number of children who had not been provided a timely initial evaluation at the conclusion of the reporting period.
- (e) The percent by which the State reduced the number of children with overdue initial evaluations reported in the State’s previous progress report. To calculate the percentage use data reported above in (A)(1): [(a) minus (d)] divided by (a) times 100.
- (f) The percent of initial evaluations provided to children whose initial evaluation deadlines fell within the reporting period that were conducted in a timely manner.

The State must also report the actual numbers for the following:

- (i) The number of children whose initial evaluation deadlines fell within the reporting period.
- (ii) The number of those children who were provided a timely initial evaluation.
- (iii) The number of children, if any, for whom the exceptions in 34 CFR §300.301(d) applied.

To calculate the percent of initial evaluations provided in a timely manner use the data reported in (ii) divided by [(i) minus (iii)] times 100.

- (g) The average number of days the initial evaluations that had not been provided in a timely manner were overdue.
- (h) A description of the actions the State is taking to address any noncompliance with the timely initial evaluation requirements.

(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 percent by which the State reduced the number of children with overdue triennial reevaluations reported in the State's previous progress report. To calculate the percentage use data reported above in (A)(2): [(a) minus (d)] divided by (a) times 100.
- (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.

The State must also report the actual numbers for the following:

- (i) The number of children whose triennial reevaluation deadlines fell within the reporting period.
- (ii) The number of those children who were provided a timely triennial reevaluation.

To calculate the percent of triennial reevaluations provided in a timely manner use the data reported in (ii) divided by (i) times 100.

- (g) The average number of days the triennial reevaluations that had not been provided in a timely manner were overdue.
- (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 manner⁴

- (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.

⁴ For purposes of the FFY 2012 Special Conditions, "HODs" 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.

- (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 by which the State reduced the number of children whose HODs had not been implemented in a timely manner reported in the State's previous progress report. To calculate the percentage, use the data reported above in (B)(1): [(a) minus (d)] divided by (a) times 100.
 - (f) The percent of HODs that were implemented in a timely manner during the reporting period.
 - (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, 2012, D.C. must provide the information specified below:
 - (a) The number of the 134 remaining findings of noncompliance identified in FFY 2009 that D.C. reported were not corrected under Indicator 15 in the FFY 2010 APR, 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").
 - (b) The number of findings of noncompliance D.C. made during FFY 2010 (July 1, 2010 through June 30, 2011).
 - (c) The number of findings identified in FFY 2010 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.
 - (d) The number of findings identified in FFY 2010 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").
 - (e) A description of the actions taken to verify the correction of noncompliance to ensure that each LEA with noncompliance identified in FFY 2009 and/or FFY 2010: (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.
 - (f) A description of the actions the State has taken to address any remaining findings of noncompliance identified in FFY 2009 and/or FFY 2010 that were not corrected.

- (2) In lieu of providing data with the second CAP progress report, due February 1, 2013, D.C. must report FFY 2011 actual target data for Indicator 15 (identification and correction of noncompliance) consistent with the required measurement and instructions in its FFY 2011 APR, due February 1, 2013. D.C. must also address all of the issues related to Indicator 15 identified in OSEP's June 28, 2012 response to the State's FFY 2010 SPP/APR submission.
 - (3) With its third CAP progress report, due May 1, 2013, D.C. must provide the information specified below:
 - (a) The number of any remaining findings of noncompliance identified in FFY 2009 and/or FFY 2010 that D.C. reported were not corrected under Indicator 15 in the FFY 2011 APR, 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").
 - (b) The number of findings of noncompliance D.C. made during FFY 2011 (July 1, 2011 through June 30, 2012).
 - (c) The number of findings identified in FFY 2011 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.
 - (d) The number of findings identified in FFY 2011 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").
 - (e) The number of findings identified in FFY 2011 for which the one year timeline for correction has not yet expired.
 - (f) A description of the actions taken to verify the correction of noncompliance to ensure that each LEA with noncompliance identified in FFY 2009, FFY 2010, and/or FFY 2011: (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.
 - (g) A description of the actions the State has taken to address any findings of noncompliance identified in FFY 2009, FFY 2010, and/or FFY 2011 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 transition 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 were 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.

- (3) Report the number of LEAs included in its review and the number of those LEAs that demonstrated compliance with the secondary transition requirements.
- (4) 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, 2012, D.C. must provide a preliminary report of the State's FFY 2011 (July 1, 2011 through June 30, 2012) actual target data for Indicator 12. The State's preliminary data must be reported consistent with the required measurement and instructions for the FFY 2011 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, 2013, 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, 2012 through December 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.
- (3) With its third CAP progress report, due May 1, 2013, 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, 2013 through March 31, 2013. 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 28, 2012 FFY 2010 SPP/APR response letter, D.C. must use: (1) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to further reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements. The Department authorizes D.C. to use the otherwise directed funds for other purposes if the State elects to direct LEAs that demonstrated noncompliance with these requirements to use: (1) \$250,000 of their FFY 2012 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and

reevaluations; and (2) \$250,000 of their FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements.

To ensure that D.C. can reduce the backlog of overdue initial evaluations and reevaluations, increase progress toward ensuring timely initial evaluations and reevaluations, and increase compliance with secondary transition requirements within one year, D.C. must accelerate the implementation of corrective measures and expedite the use of the directed FFY 2012 IDEA Part B funds. Based on the following timeline, the Department is requiring D.C. to ensure that \$500,000 of its FFY 2012 IDEA Part B funds are used for the purposes described below by July 1, 2013.

1. On August 1, 2012, D.C. must report whether it intends to: (1) use \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; (2) direct those LEA(s) that demonstrated noncompliance to use \$250,000 of their FFY 2012 IDEA Part B funds to reduce the backlog and increase progress towards ensuring timely initial evaluations and reevaluations; or (3) use a portion of its FFY 2012 State-level funds, and direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2012 IDEA Part B funds to reduce the backlog and increase progress towards ensuring timely initial evaluations and reevaluations (the combined amount of State-level and LEA-level FFY 2012 IDEA Part B funds must total \$250,000). D.C. must also report whether it intends to: (1) use \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements; (2) direct those LEA(s) that demonstrated noncompliance to use \$250,000 of their FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements; or (3) use a portion of its FFY 2012 State-level funds, and direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements (the combined amount of State-level and LEA-level FFY 2012 IDEA Part B funds must total \$250,000).

With its August 1, 2012 report, D.C. must provide a proposed spending plan on how the FFY 2012 State-level funds under IDEA section 611(e) will be used by July 1, 2013 to reduce the backlog of overdue initial evaluations and reevaluations, increase progress toward ensuring timely initial evaluations and reevaluations, and to address noncompliance with secondary transition requirements. 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, 2013; and (4) an explanation of how the activities will result in reduction of the backlog and increase progress toward ensuring timely initial evaluations and reevaluations, and address noncompliance with secondary transition requirements. D.C. must also describe the documentation that it will provide to demonstrate that it has used: (1) \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) and and/or the portion of FFY 2012 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 to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) \$250,000 of its FFY 2012 State-level funds under IDEA section

611(e) and and/or the portion of FFY 2012 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 to address noncompliance with secondary transition requirements.

In addition, as required by the Department's June 20, 2011 determination letter and the Special Conditions in D.C.'s July 1, 2011 IDEA Part B grant award letter, D.C. must provide: (1) the amount of the \$250,000 of FFY 2010 State-level funds under IDEA section 611(e) DCPS used from April 1, 2012 through June 30, 2012 to reduce the backlog; (2) documentation that DCPS used those FFY 2010 IDEA Part B funds to reduce the backlog; (3) the amount of the \$261,874 of DCPS' FFY 2011 IDEA Part B funds that were used from April 1, 2012 through June 30, 2012 to carry out the activities described in DCPS' spending plan; and (4) documentation that DCPS used those FFY 2011 IDEA Part B funds in a manner consistent with the DCPS' spending plan. If DCPS does not use the funds by July 1, 2012, the State will be required to continue to report on the use of those funds in each subsequent progress report, until the Department notifies the State that it has determined that the State and DCPS have fulfilled the requirement to use the FFY 2010 and FFY 2011 IDEA Part B funds.

Using the data reported in section 2.b.(A)(1)(e) and (A)(2)(e) of these Special Conditions, the State must also report: (1) the percent by which the State reduced the number of children with overdue initial evaluations reported in the State's May 1, 2012 progress report, amended May 15, 2012; and (2) the percent by which the State reduced the number of children with overdue reevaluations reported in the State's May 1, 2012 progress report, amended May 15, 2012.⁵

2. On November 1, 2012, 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: (1) any LEA(s) directed to use FFY 2012 IDEA Part B funds to reduce the backlog and increase progress toward ensuring timely initial evaluations and reevaluations; and (2) any LEA(s) directed to use FFY 2012 IDEA Part B funds to address noncompliance with secondary transition requirements. D.C. must also provide: (1) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from July 1, 2012 through September 30, 2012 to carry out the activities described in the State's and/or LEA's spending plan to reduce the backlog and increase progress toward ensuring timely initial evaluations and reevaluations; (2) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from July 1, 2012 through September 30, 2012 to carry out the activities described in the State's and/or LEA's spending plan to address noncompliance with secondary transition requirements; and (3) documentation that the State and/or LEA used those FFY 2012 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.

Using the data reported in section 2.b.(A)(1)(e) and (A)(2)(e) of these Special Conditions, the State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's August 1, 2012 progress report by 25 percent; and

⁵ OSEP will take into consideration D.C.'s submission of amended data to allow for "late data entry or data correction adjustments," as appropriate.

(2) reduced the number of children with overdue reevaluations reported in the State's August 1, 2012 progress report by 25 percent.

Using the data reported in section 2.b.(D)(2) of these Special Conditions, the State must demonstrate that of the student records reviewed, 75 percent of youth aged 16 and above had IEPs that included the required secondary transition content.

3. On February 1, 2013, D.C. must provide: (1) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from October 1, 2012 through December 31, 2012 to carry out the activities described in the State's and/or LEA's spending plan to reduce the backlog and increase progress toward ensuring timely initial evaluations and reevaluations; (2) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from October 1, 2012 through December 31, 2012 to carry out the activities described in the State's and/or LEA's spending plan to address noncompliance with secondary transition requirements; and (3) documentation that the State and/or LEA used those FFY 2012 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.

Using the data reported in section 2.b.(A)(1)(e) and (A)(2)(e) of these Special Conditions, the State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's November 1, 2012 progress report by 50 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's November 1, 2012 progress report by 50 percent.

Using the data reported in section 2.b.(D)(2) of these Special Conditions, the State must demonstrate that of the student records reviewed, 85 percent of youth aged 16 and above had IEPs that included the required secondary transition content.

4. On May 1, 2013, D.C. must provide: (1) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from January 1, 2013 through March 31, 2013 to carry out the activities described in the State's and/or LEA's spending plan to reduce the backlog and increase progress toward ensuring timely initial evaluations and reevaluations; (2) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from January 1, 2013 through March 31, 2013 to carry out the activities described in the State's and/or LEA's spending plan to address noncompliance with secondary transition requirements; and (3) documentation that the State and/or LEA used those FFY 2012 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.

Using the data reported in section 2.b.(A)(1)(e) and (A)(2)(e) of these Special Conditions, the State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's February 1, 2013 progress report by 75 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's February 1, 2013 progress report by 75 percent.

Using the data reported in section 2.b.(D)(2) of these Special Conditions, the State must demonstrate that of the student records reviewed, 95 percent of youth aged 16 and above had IEPs that included the required secondary transition content.

5. On August 1, 2013, D.C. must provide: (1) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from April 1, 2013 through

June 30, 2013 to carry out the activities described in the State's and/or LEA's spending plan to reduce the backlog and increase progress toward ensuring timely initial evaluations and reevaluations; (2) the amount of the \$250,000 of the State's and/or LEA's FFY 2012 IDEA Part B funds that were used from April 1, 2013 through June 30, 2013, to carry out the activities described in the State's and/or LEA's spending plan to address noncompliance with secondary transition requirements; and (3) documentation that the State and/or LEA used those FFY 2012 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.

Using the data reported in section 2.b.(A)(1)(e) and (A)(2)(e) of these Special Conditions, the State must demonstrate that it has: (1) reduced the number of children with overdue initial evaluations reported in the State's May 1, 2013 progress report by 95 percent or more; and (2) reduced the number of children with overdue reevaluations reported in the State's May 1, 2013 progress report by 95 percent or more.

Using the data reported in section 2.b.(D)(2) of these Special Conditions, the State must demonstrate that of the student records reviewed, 95 percent of youth aged 16 and above had IEPs that included the required secondary transition content.⁶

- d. **FFY 2011 SPP/APR:** D.C. must submit its FFY 2011 SPP/APR to OSEP, due February 1, 2013. D.C. must report consistent with the required measurement and instructions, FFY 2011 data for all indicators and must address all issues identified in OSEP's June 28, 2012 response to the State's FFY 2010 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 2012 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 4173
Washington, D.C. 20202 or by e-mail to: lisa.pagano@ed.gov

⁶ OSEP recognizes that the August 1, 2013 due date for reporting this information occurs after the FFY 2012 grant period (July 1, 2012 through June 30, 2013). However, since the data required for the August 1, 2013 progress report are based on activities carried out during FFY 2012, we are including this reporting requirement in these Special Conditions. When reporting on August 1, 2013, D.C. must provide the data required in section 2.b.(A) (timely initial evaluations and reevaluations) and section 2.b.(D) (secondary transition requirements) for the period of April 1, 2013 through June 30, 2013.

