



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

JUN 28 2012

Honorable Hosanna Mahaley
State Superintendent
Office of the State Superintendent of Education
810 First Street, N.E., 9th Floor
Washington, D.C. 20002

Dear Superintendent Mahaley:

Thank you for the timely submission of the District of Columbia's (D.C.'s) Federal fiscal year (FFY) 2010 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA).

The U.S. Department of Education (Department) has determined that, under IDEA section 616(d)(2)(A)(iii), D.C. "needs intervention" in implementing the requirements of Part B of the IDEA. The Department's determination is based on the totality of the State's data and information, including the State's FFY 2010 APR and revised SPP, other State-reported data, the State's submissions under the Special Conditions on D.C.'s FFY 2011 IDEA Part B grant, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2012: Part B" for further details.

The specific factors affecting OSEP's determination of needs intervention were that: (1) D.C.'s FFY 2010 data reflect a very low level of compliance with compliance Indicator 13 (secondary transition) at 6.75%; and (2) D.C. provided data in response to D.C.'s FFY 2011 Special Conditions that demonstrate D.C. continues to have longstanding noncompliance issues that the Department has had to require that D.C. address for multiple years with various enforcement actions. D.C. continues to demonstrate noncompliance with the following key IDEA requirements: timely correction of noncompliance, timely implementation of hearing officer determinations (HODs), and timely initial evaluations and reevaluations. In making its determination of needs intervention, OSEP considered, among other things, the length of time and magnitude of D.C.'s failure to comply with these requirements.

The enclosed table provides OSEP's analysis of the State's FFY 2010 APR and revised SPP, and identifies by indicator OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources), and baseline data in the State's SPP. The table also identifies, by indicator: (1) the State's reported FFY 2010 data; (2) whether such data met the State's FFY 2010 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

Very Low Performance for Indicator 13

Under Indicator 13, D.C. was required to provide data on the percent of youth with individualized education programs (IEPs) 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. D.C.'s FFY 2010 reported data for Indicator 13 were 6.75%. D.C.'s low level of compliance with the secondary transition requirements has been a needs intervention factor or a Special Condition since June 2009. This is a critical indicator since inclusion of appropriate postsecondary goals and transition services in a student's IEP enables the student to make a successful transition from school to post-school activities, including postsecondary education, vocational education, integrated employment, and independent living. In the State's May 1, 2012 progress report (amended May 15, 2012), D.C. reported that for the period January 1, 2012 through March 31, 2012, 41% of a random sample of 100 IEPs of youth aged 16 and above 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).

Noncompliance with Other Key IDEA Requirements

A. Timely Correction of Noncompliance

D.C. failed to meet the Special Condition to ensure timely correction of noncompliance, which was first imposed on the State's FFY 2005 IDEA Part B grant and has continued to apply to each IDEA Part B grant since that time. In addition, this area of noncompliance was also included in the Memorandum of Agreement (MOA) entered into on December 7, 2009 between D.C. and the Department, whereby D.C. agreed to take corrective actions under specific timelines and provide regularly scheduled progress reports to OSEP, and the Department agreed to release portions of the withheld FFY 2009 State-level funds under IDEA section 611(e) if D.C. met the benchmarks established in the MOA.¹ 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%). The State attributed the slippage in compliance from the timely correction rate for FFY 2008 findings (98%) and FFY 2009 findings (81.29%) 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 local educational agency (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).

¹ Because D.C. did not meet all of the MOA benchmark targets for any one of the six reporting periods, it was not permitted to draw down any portion of the withheld FFY 2009 funds.

B. Timely Implementation of Hearing Officer Determinations

D.C. has failed to meet the Special Condition imposed on its FFY 2011 IDEA Part B grant to ensure timely implementation of HODs. This issue was initially identified in the 1998-2001 Compliance Agreement between D.C. and the Department and has been included in the Special Conditions imposed on each IDEA Part B grant from 2001 to the present. In addition, this area of noncompliance was also included in the MOA entered into on December 7, 2009 between D.C. and the Department.

D.C. reported in the May 1, 2012 progress report (amended May 15, 2012) that for the January 1, 2012 through March 31, 2012 reporting period, 26% of HODs were implemented in a timely manner and the number of children in the backlog of HODs not timely implemented was 57. This represents a decrease in the level of compliance from the February 2, 2011 through March 31, 2011 reporting period when D.C. reported that 73% of HODs were implemented in a timely manner and the number of children in the backlog of HODs not timely implemented was 11². The State attributed this slippage to the adoption of new State guidelines and the documentation requirements for concluding that an HOD has been implemented in a timely manner. Ensuring timely implementation of HODs is an essential part of establishing an effective due process and general supervision system. D.C. continues to demonstrate noncompliance with the requirements in IDEA section 615(f) and (i) to ensure timely implementation of due process decisions.

C. Timely Initial Evaluations and Reevaluations

D.C. has failed to meet the Special Condition imposed on its FFY 2011 IDEA Part B grant to ensure timely initial evaluations and reevaluations. This issue was initially identified in the 1998-2001 Compliance Agreement between D.C. and the Department, and has been included in the Special Conditions imposed on each IDEA Part B grant from 2001 to the present. In addition, this area of noncompliance was also included in the MOA entered into on December 7, 2009 between D.C. and the Department.

The failure to ensure timely initial evaluations and reevaluations was a factor in the State's FFY 2008 APR determination. In OSEP's June 3, 2010 determination letter, pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Secretary directed D.C. to use \$500,000 of its FFY 2010 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 Secretary 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 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.³ In its October 1, 2010 progress report, the State provided a copy of correspondence dated August 23, 2010, in which 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. In its February 1, 2011 progress report, the State informed OSEP that it would use \$250,000 of its FFY 2010 State-

² This number was adjusted to 9 in the October 31, 2011 progress report, amended November 16, 2011.

³ D.C. reported during OSEP's November 2009 verification visit that the State's system of progressive sanctions and enforcement options to address uncorrected noncompliance includes directing the LEA's use of IDEA Part B funds.

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 required that the State continue to report on the use of the FFY 2010 funds.

The failure to ensure timely initial evaluations and reevaluations was also a factor in the State's FFY 2009 APR determination. In OSEP's June 20, 2011 determination letter, pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Secretary directed D.C. to use \$500,000 of its FFY 2011 State-level funds under IDEA section 611(e) to address the longstanding noncompliance with the requirements to ensure timely initial evaluations and reevaluations. D.C. was required to use \$500,000 of its FFY 2011 State-level funds to reduce the backlog of overdue initial evaluations and reevaluations. The Secretary 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 2011 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations.

In section VI of its corrective action plan (CAP) submitted on July 27, 2011, the State reported that it would direct 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 its October 31, 2011 progress report (amended November 16, 2011), the State provided: (1) a copy of its August 4, 2011 letter to DCPS, in which the State 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; and (2) a copy of its September 8, 2011 letter to DCPS, in which the State notified DCPS that \$250,000 of D.C.'s FFY 2010 State-level funds under IDEA section 611(e) would be made available to DCPS to reduce the backlog of overdue initial evaluations and reevaluations. The State also provided DCPS' proposed spending plan for the FFY 2011 IDEA Part B funds, which included: (1) the activities that would 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 demonstrated that the funds would be used by July 1, 2012; and (4) an explanation of how the activities would result in the reduction of the backlog. The State reported that it would track DCPS' expenditures of FFY 2010 and 2011 funds through DCPS' grant reimbursement workbooks and DCPS' CAP progress reports.

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 documentation that DCPS used: (1) the directed FFY 2010 IDEA Part B funds to reduce the backlog of overdue initial evaluation and reevaluations; and (2) the directed FFY 2011 IDEA Part B funds in a manner consistent with DCPS' spending plan. 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. The State must provide updated information on the

use of these funds in the August 1, 2012 progress report 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.

The information in the State's May 1, 2012 progress report (amended May 15, 2012) indicates that the State has made some progress in increasing its compliance with timely initial evaluation and reevaluation requirements and reducing the backlog of overdue initial evaluations and reevaluations. In the May 2, 2011 progress report, D.C. reported that for the February 1, 2011 through March 31, 2011 reporting period, 58% of initial evaluations were completed in a timely manner and 416 children⁴ had not been provided a timely initial evaluation at the end of the reporting period. In the May 1, 2012 progress report (amended May 15, 2012), D.C. reported that for the January 1, 2012 through March 31, 2012 reporting period, 94% 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 its May 2, 2011 progress report, D.C. reported that 82% of reevaluations were completed in a timely manner and that 180 children⁵ had not been provided a timely reevaluation 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% 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. Therefore, while D.C. has made some progress, D.C. 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.

Determination and Enforcement Action

D.C.'s determination for the FFY 2005, 2006, 2007, 2008, and 2009 APRs was needs intervention. This is now the sixth consecutive year that D.C. is receiving a determination of needs intervention. In accordance with IDEA section 616(e)(2)(B) and 34 CFR §300.604(b), if a State is determined to need intervention for three or more consecutive years, the Secretary shall take one or more of the following actions: (1) require the State to prepare a CAP or improvement plan if the Secretary determines that the State should be able to correct the problem within one year; (2) require the State to enter into a compliance agreement under Section 457 of the General Education Provisions Act (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year; (3) withhold, not less than 20 percent and not more than 50 percent of the Part B funds reserved for State-level activities for each year of the determination until the Secretary determines that the State has sufficiently addressed the area(s) in which the State needs intervention; (4) seek to recover Part B funds under Section 452 of GEPA; (5) withhold, in whole or in part, any further payments of Part B funds to the State; or (6) refer the matter for appropriate enforcement action, which may include referral to the Department of Justice. In addition, under IDEA section 616(e)(2)(A), the Secretary may take one of the three actions specified under IDEA section 616(e)(1), (if a State is determined to need assistance for two consecutive years), which include under IDEA section 616(e)(1)(B) that the

⁴ This number was adjusted to 192 in the October 31, 2011 progress report, amended November 16, 2011.

⁵ This number was adjusted to 111 in the October 31, 2011 progress report, amended November 16, 2011.

Secretary may direct the use of State-level funds under IDEA section 611(e) on the area or areas in which the State needs assistance.

A. Corrective Action Plan

Pursuant to IDEA section 616(e)(2)(B)(i), the Secretary is requiring D.C. to submit a CAP that is reasonably designed to address each of the areas in which D.C. needs intervention. The Secretary is requiring D.C. to submit this CAP because the Secretary has determined that, in combination with directing the use of funds as described further below, D.C. should be able to correct the problems that are the bases for its needs intervention determination within one year from this determination letter, and that other enforcement remedies under IDEA section 616(e)(2)(B) are not appropriate at this time.

Therefore, on August 1, 2012, D.C. must submit a CAP that addresses the actions D.C. will take to:

- (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 sections 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.

D.C.'s CAP must include the specific actions and timelines by which the State will carry out these actions.

B. Directing the Use of Funds

In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and (2)(A), the Secretary is directing 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 Secretary 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.

Directing the use of funds is an appropriate enforcement action because it supports the ability of D.C. and its LEAs to timely evaluate and reevaluate children with disabilities and meet secondary transition requirements, which are critical IDEA requirements that directly impact a child's right to receive a free appropriate public education. The failure of a State to ensure the provision of a timely initial evaluation and reevaluation results in a delay in the determination of

whether a child is or continues to be a child with a disability, and in the provision of services that appropriately meet a child's current educational needs. The failure of a State to comply with secondary transition requirements impacts a student's ability to make a successful transition from school to post-school activities, including postsecondary education, vocational education, integrated employment, and independent living. The amount of \$500,000 represents a significant commitment of resources that will be targeted to ensure that D.C. and its LEAs take the necessary action to 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.

In addition, 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. The State must also report: (1) the percentage 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 percentage 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).

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.

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%; and (2) reduced the number of children with overdue reevaluations reported in the State's August 1, 2012 progress report by 25%.⁶

The State 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; and (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. The State must demonstrate that of the student records reviewed, 75% 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.

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%; and (2) reduced the number of children with overdue reevaluations reported in the State's November 1, 2012 progress report by 50%.

The State 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; and (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

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.

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. The State must demonstrate that of the student records reviewed, 85% 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.

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%; and (2) reduced the number of children with overdue reevaluations reported in the State's February 1, 2013 progress report by 75%.

The State 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; and (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. The State must demonstrate that of the student records reviewed, 95% or more 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.

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% or more; and (2) reduced the number of children with overdue reevaluations reported in the State's May 1, 2013 progress report by 95% or more.

The State 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; and (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. The State must demonstrate that of the student records reviewed, 95% or more of youth aged 16 and above had IEPs that included the required secondary transition content.

Conclusion

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, the State must notify the public within the State that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media and through public agencies.

The Secretary also is advising the State of technical assistance available related to the following indicators: Indicator 11 (timely initial evaluations), Indicator 13 (secondary transition), and Indicator 15 (identification and correction of noncompliance). A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of "The Right IDEA" Web site at: <http://therightidea.tadnet.org/technicalassistance>. You will be directed to a list of indicators. Click on a specific indicator for a list of centers, documents, Web seminars, and other sources of relevant technical assistance for that indicator.

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), your State must report annually to the public on the performance of each LEA located in the State on the targets in the SPP as soon as practicable, but no later than June 1, 2012. In addition, your State must: (1) review LEA performance against targets in the State's SPP; (2) determine if each LEA "meets requirements" of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination. 34 CFR §300.600(a)(2) and (3).

For further information regarding these requirements, see "The Right IDEA" Web site at: <http://therightidea.tadnet.org/determinations>. Finally, please ensure that your updated SPP is posted on the State educational agency's Web site and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

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

OSEP is committed to supporting D.C.'s efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Lisa Pagano, your OSEP State Contact, at 202-245-7413.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melody Musgrove', with a long horizontal flourish extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education