



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

July 1, 2013

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

Dear Superintendent Mahaley Jones:

Thank you for the timely submission of the District of Columbia's (D.C.'s) Federal fiscal year (FFY) 2011 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 2011 APR and revised SPP, other State-reported data, the State's submissions under the Special Conditions on D.C.'s FFY 2012 IDEA Part B grant, and other publicly available information. The State's data are reflected in a new 2013 Compliance Matrix (Compliance Matrix), described below.

Your State's determination is based on the data reflected in the enclosed "2013 Part B Compliance Matrix" that the Office of Special Education Programs (OSEP) completed based on the State's data. Also, enclosed is the document entitled, "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2013: Part B," which provides a detailed description of how OSEP evaluated States' data using the Compliance Matrix. The Compliance Matrix reflects the compliance data summarized in the State's FFY 2011 SPP/APR Response Table.

The enclosed District of Columbia FFY 2011 Response Table provides OSEP's analysis of the State's FFY 2011 APR and revised SPP. The Response Table includes: (1) the Indicators; (2) the Results Data Summary; (3) the Results Data Summary Notes; (4) the Compliance Data Summary; and (5) the Compliance Data Summary Notes. In the Results Data Summary and the Compliance Data Summary, the Response Table sets forth, by indicator, the State's: (1) reported FFY 2010 data; (2) reported FFY 2011 data; and (3) FFY 2011 target(s), in a concise "dashboard" format. The Compliance Data Summary also includes a column that reflects the number of findings of noncompliance identified in FFY 2010, and the correction of those findings. In the "Notes" sections following the Results Data Summary and the Compliance Data Summary, OSEP has provided more detailed information regarding specific indicators, including, where appropriate, information regarding: (1) the State's correction of any remaining findings of noncompliance identified in years prior to FFY 2010; (2) any issues with the validity and reliability of the data that the State reported; and (3) any required actions. It is important that the State read the information for each indicator in the Results Data Summary and the Compliance Data Summary together with any Notes for that indicator.

As further explained in the enclosed documents described above, the specific reasons for the State's determination of "needs intervention" are that: (1) D.C.'s Compliance Matrix percentage, at 54.55 percent, is below the criterion of 75 percent; (2) D.C.'s FFY 2011 data for Indicator 13 (secondary transition) reflect a very low level of compliance at 28 percent; and (3) the Department has imposed Special Conditions on D.C.'s IDEA Part B grant awards since FFY 2001, and those Special Conditions are in effect at the time of the 2013 determination. D.C. provided data in response to D.C.'s FFY 2012 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.

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. This is a critical indicator since compliance with secondary transition requirements enables a student to make a successful transition from school to post-school activities, including postsecondary education, vocational education, integrated employment, and independent living.

D.C.'s FFY 2011 reported data for Indicator 13 were 28 percent. 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 area of noncompliance was 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

In the State's FFY 2012 Special Conditions progress reports, D.C. reported data for the period July 1, 2012 through March 31, 2013, that reflect 39 percent compliance with secondary transition requirements. While these data reflect some progress from the FFY 2011 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).

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.

The failure to ensure compliance with secondary transition requirements was a factor in the State's FFY 2010 APR needs intervention determination. In OSEP's June 28, 2012 determination letter, pursuant to IDEA section 616(e)(2)(B)(i), the Secretary required D.C. to submit a corrective action plan (CAP) that addressed the actions D.C. would take to demonstrate compliance with the secondary transition requirements. In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and 2(A), the Secretary directed D.C. to use \$250,000 of its FFY 2012 State-level funds under IDEA section 611(e) to address noncompliance with the secondary transition requirements.² The Secretary authorized D.C. to use the otherwise directed funds for other purposes if the State elected to direct local educational agencies (LEAs) that demonstrated noncompliance with the secondary transition requirements to use \$250,000 of their FFY 2012 IDEA Part B funds to address noncompliance with these requirements.

In Section VI of its FFY 2012 CAP, submitted July 30, 2012, the State reported it would use \$250,000 of its State-level funds to "support key high leverage activities at the State level that it believes will accelerate progress in the area of secondary transition." The State provided its proposed spending plan for the FFY 2012 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, 2013; and (4) an explanation of how the activities would address noncompliance with secondary transition requirements. On March 20, 2013, the State submitted a revised spending plan for OSEP's review and approval. The State's revised spending plan modified the cost of certain activities in its initial spending plan and included additional activities related to addressing noncompliance with secondary transition requirements. In correspondence to D.C. dated April 19, 2013, OSEP approved the State's revised spending plan.

The State provided documentation on May 28, 2013, that reflects that, as of March 31, 2013, D.C. had obligated \$189,995 of the directed FFY 2012 IDEA Part B funds. The FFY 2012 Special Conditions and the Department's June 28, 2012 determination letter require D.C. to provide an updated report on the use of the directed FFY 2012 funds on August 1, 2013.

Noncompliance with Other Key IDEA Requirements

A. Timely Correction of Noncompliance

D.C. has 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. This area of noncompliance was also included in the MOA entered into on December 7, 2009 between D.C. and the Department.

D.C.'s FFY 2011 reported data for Indicator 15 (timely correction) were 61 percent. D.C. reported in its May 1, 2013 progress report (revised May 28, 2013), that 2,106 of the 2,459 findings of noncompliance identified in FFY 2011, for which the one-year timeline has expired, were corrected in a timely manner (85.6 percent). While these data demonstrate progress, D.C. has not yet achieved compliance with the requirement to ensure that identified noncompliance is

² 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.

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).

B. Timely Implementation of Hearing Officer Determinations

D.C. has failed to meet the Special Condition imposed on its FFY 2012 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 included in the MOA entered into on December 7, 2009 between D.C. and the Department.

In its May 1, 2012 progress report (amended May 15, 2012), the State reported that for the period January 1, 2012 through March 31, 2012, 26 percent of HODs were implemented in a timely manner with a backlog of 57 children whose HODs were not implemented timely. In its May 1, 2013 progress report (revised May 28, 2013), the State reported that for the period January 1, 2013 through March 31, 2013, 80 percent of HODs were implemented in a timely manner with a backlog of 12 children whose HODs were not implemented timely. Ensuring timely implementation of HODs is an essential part of establishing an effective due process and general supervision system. While the FFY 2012 data demonstrate progress, the State has not yet achieved compliance with the requirement to ensure HODs are implemented in a timely manner consistent with IDEA section 615(f) and (i).

C. Timely Initial Evaluations and Reevaluations

D.C. has failed to meet the Special Condition imposed on its FFY 2012 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 and FFY 2009 APR determinations. In OSEP's June 3, 2010 and June 20, 2011 determination letters, pursuant to IDEA section 616(e)(2)(B)(i), the Secretary required D.C. to submit a CAP that addressed the actions D.C. would take to 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. In addition to submitting a CAP, pursuant to IDEA section 616(e)(1)(B) and 2(A), the Secretary directed D.C. to use \$500,000 of its FFY 2010 and 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. Each year, 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 IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations. D.C. provided documentation with its October 31, 2012 CAP progress report (amended December 11, 2012), that demonstrates that the State and District of Columbia Public

Schools used the full amount of the directed FFY 2010 and FFY 2011 funds to satisfy the enforcement action required by the Department’s determination letters.

The failure to ensure timely initial evaluations and reevaluations was, again, a factor in the State’s FFY 2010 APR determination. In OSEP’s June 28, 2012 determination letter, pursuant to IDEA section 616(e)(2)(B)(i), the Secretary required D.C. to submit a CAP that addressed the actions D.C. would take to demonstrate compliance with the requirement to conduct timely initial evaluations and reevaluations. In addition to submitting a CAP, the Secretary directed D.C. to use \$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. 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 \$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.

In Section VI of its FFY 2012 CAP, submitted July 30, 2012, the State reported it would use \$250,000 of its State-level funds to “support activities for improvement in compliance for initial evaluations and reevaluations.” The State provided its proposed spending plan for the directed FFY 2012 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, 2013; and (4) an explanation of how the activities would result in the reduction of the backlog. On March 20, 2013, the State submitted a revised spending plan for OSEP’s review and approval. The State’s revised spending plan modified the cost of certain activities in the initial spending plan and included additional activities related to reducing the backlog of overdue initial evaluations and reevaluations and increasing progress toward ensuring timely initial evaluations and reevaluations. In correspondence to D.C. dated April 19, 2013, OSEP approved the State’s revised spending plan. On May 28, 2013, the State provided documentation that reflects that, as of March 31, 2013, D.C. had obligated the full amount of the directed FFY 2012 IDEA Part B funds. The FFY 2012 Special Conditions and the Department’s June 28, 2012 determination letter require D.C. to provide an updated report on the use of the directed FFY 2012 funds on August 1, 2013.

The information in the State’s FFY 2012 Special Conditions progress reports reflect that for the period July 1, 2012 through March 31, 2013, 91.7 percent of children were provided a timely initial evaluation and 90.7 percent of children were provided a timely reevaluation. In its May 1, 2012 progress report (amended May 15, 2012),³ the State reported that for the period January 1, 2012 through March 31, 2012, 94 percent of children were provided a timely initial evaluation with a backlog of 35 children who had not been provided a timely initial evaluation. In its May 1, 2013 progress report (revised May 28, 2013), the State reported that for the period January 1, 2013 through March 31, 2013, 94 percent of children were provided a timely initial evaluation with a backlog of 26 children who had not been provided at timely initial evaluation.

³ The data on the number of the children in the backlog reflects D.C.’s July 30, 2012 data submission, which included “late data entry or data correction adjustments.”

In its May 1, 2012 progress report (amended May 15, 2012), the State reported that for the period January 1, 2012 through March 31, 2012, 89 percent of children were provided a timely reevaluation with a backlog of 90 children who had not been provided a timely reevaluation. In its May 1, 2013 progress report (revised May 28, 2013), the State reported that for the period January 1, 2013 through March 31, 2013, 92 percent of children were provided a timely reevaluation with a backlog of 62 children who had not been provided a timely reevaluation. While these data reflect progress, D.C. has not yet achieved compliance with the 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, 2009, and 2010 APRs was “needs intervention.” This is now the seventh 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 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, 2013, 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. We encourage the State to include in its CAP, evidence-based activities that are designed to improve the State's compliance with the requirements, as well as help D.C. to achieve and sustain a high level of performance.

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) \$125,000 of its FFY 2013 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 2013 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) \$125,000 of their FFY 2013 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 2013 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 \$375,000 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 2013 IDEA Part B funds. Based on the following timeline, the Department is requiring D.C. to

ensure that \$375,000 of its FFY 2013 IDEA Part B funds are used for the purposes described below by July 1, 2014.

1. On August 1, 2013, D.C. must report whether it intends to: (1) use \$125,000 of its FFY 2013 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 \$125,000 of their FFY 2013 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 2013 State-level funds, and direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2013 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 2013 IDEA Part B funds must total \$125,000). D.C. must also report whether it intends to: (1) use \$250,000 of its FFY 2013 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 2013 IDEA Part B funds to address noncompliance with secondary transition requirements; or (3) use a portion of its FFY 2013 State-level funds, and direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2013 IDEA Part B funds to address noncompliance with secondary transition requirements (the combined amount of State-level and LEA-level FFY 2013 IDEA Part B funds must total \$250,000).

With its August 1, 2013 report, D.C. must provide a proposed spending plan on how the FFY 2013 State-level funds under IDEA section 611(e) will be used by July 1, 2014, 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, 2014; 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) \$125,000 of its FFY 2013 State-level funds under IDEA section 611(e) and and/or the portion of FFY 2013 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 2013 State-level funds under IDEA section 611(e) and and/or the portion of FFY 2013 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 28, 2012 determination letter and the Special Conditions in D.C.'s July 1, 2012 IDEA Part B grant award letter, D.C. must provide: (1) the amount of the \$250,000 of FFY 2012 State-level funds under IDEA

section 611(e) the State used from April 1, 2013 through June 30, 2013, to carry out the activities described in the State’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 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 spending plan to address noncompliance with secondary transition requirements; and (3) documentation that the State used those FFY 2012 IDEA Part B funds in a manner consistent with the State’s spending plan. If D.C. does not use the funds by July 1, 2013, the State must 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 has fulfilled the requirement to use the FFY 2012 IDEA Part B funds.

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 (revised May 28, 2013), by 25 percent; and (2) reduced the number of children with overdue reevaluations reported in the State’s May 1, 2013 progress report (revised May 28, 2013), by 25 percent.⁴

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, 50 percent of youth aged 16 and above had IEPs that included the required secondary transition content.⁵

2. On November 1, 2013, 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 2013 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 2013 IDEA Part B funds to address noncompliance with secondary transition

⁴ OSEP will take into consideration D.C.’s submission of amended data to allow for “late data entry or data correction adjustments,” as appropriate.

⁵ The Department’s FFY 2012 Special Conditions require that the State demonstrate: (1) it has reduced the number of children with overdue initial evaluations and reevaluations by 95 percent; and (2) of the student records reviewed, 95 percent of youth aged 16 and above had IEPs that included the required secondary transition content. Based on the data reflected in the State’s May 1, 2013 progress report (revised May 28, 2013), we have adjusted these requirements accordingly.

requirements. D.C. must also provide: (1) the amount of the \$125,000 of the State's and/or LEA's FFY 2013 IDEA Part B funds that were used from July 1, 2013 through September 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 2013 IDEA Part B funds that were used from July 1, 2013 through September 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 2013 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, 2013 progress report by 50 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's August 1, 2013 progress report by 50 percent.

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 percent of youth aged 16 and above had IEPs that included the required secondary transition content.

3. On February 1, 2014, D.C. must provide: (1) the amount of the \$125,000 of the State's and/or LEA's FFY 2013 IDEA Part B funds that were used from October 1, 2013 through December 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 2013 IDEA Part B funds that were used from October 1, 2013 through December 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 2013 IDEA Part B funds in a manner consistent with the State's and/or LEA's spending plan.
4. On May 1, 2014, D.C. must provide: (1) the amount of the \$125,000 of the State's and/or LEA's FFY 2013 IDEA Part B funds that were used from January 1, 2014 through March 31, 2014, 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 2013

IDEA Part B funds that were used from January 1, 2014 through March 31, 2014, 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 2013 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, 2013 progress report by 75 percent; and (2) reduced the number of children with overdue reevaluations reported in the State's November 1, 2013 progress report by 75 percent.

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 percent or more of youth aged 16 and above had IEPs that included the required secondary transition content.

5. On August 1, 2014, D.C. must provide: (1) the amount of the \$125,000 of the State's and/or LEA's FFY 2013 IDEA Part B funds that were used from April 1, 2014 through June 30, 2014, 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 2013 IDEA Part B funds that were used from April 1, 2014 through June 30, 2014, 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 2013 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, 2014 progress report by 95 percent or more; and (2) reduced the number of children with overdue reevaluations reported in the State's May 1, 2014 progress report by 95 percent 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 percent 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 your State of available sources of technical assistance. 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, that the State may wish to use in working to improve compliance and outcomes for children with disabilities and their families.

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 120 days after the State’s submission of its FFY 2011 APR. 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. *See*, IDEA section 616(a)(1)(C) and 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 IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(B).

As you know, OSEP is redesigning its accountability system to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616 of the IDEA requires that the primary focus of IDEA monitoring must be on improving educational results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements. The monitoring system implemented between 2004 and 2012 placed a heavy emphasis on compliance, and we are moving towards a more balanced approach that considers results as well as compliance.

OSEP is committed to several key principles to guide the development of a results-driven accountability system, including transparency, stakeholder involvement, and burden reduction. In support of these principles, we are taking a number of steps. First, we solicited input from

special education, early intervention, assessment, and early childhood outcomes experts, and gathered input from the public through conference calls, a blog on the Department's Web site, and through multiple meetings and conferences. Next, OSEP published for comment a new SPP/APR package for FFYs 2013 through 2018 that significantly reduces data collection and reporting burden by States, and shifts the focus of the SPP/APR to improving educational results and functional outcomes for children with disabilities. Third, as explained above, this year OSEP has incorporated compliance data into a matrix that is helpful in simultaneously processing multiple sets of data, and has used this matrix in making determinations. This Compliance Matrix includes a color-coded system (green, yellow, red) that provides a visual representation of a State's performance. Finally, as we move forward in using results data in determinations, OSEP will provide the public with an opportunity to comment on how we will use results when making IDEA determinations in 2014 under section 616.

We are also enclosing with this letter a Data Display, which presents certain State-reported data in a transparent, user-friendly manner. The Data Display will be helpful for the public in getting a broader picture of State performance in key areas.

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 Michael K. Yudin, Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services, U.S. 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 recognizes the District of Columbia's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year as we continue our important work of improving the lives of children with disabilities and their families. 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,



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

Enclosures

cc: State Director of Special Education