



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

June 23, 2014

Honorable Jesús Aguirre  
State Superintendent of Education  
District of Columbia  
Office of the State Superintendent of Education  
810 First Street, N.E., 9<sup>th</sup> Floor  
Washington, D.C. 20002

Dear Superintendent Aguirre:

I am writing to advise you of the U. S. Department of Education's (Department) 2014 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that the District of Columbia (D.C.) needs intervention in implementing the requirements of Part B of the IDEA. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2012 Annual Performance Report (APR) and revised State Performance Plan (SPP), other State-reported data, and other publicly available information.

As you know, the Office of Special Education Programs (OSEP) is implementing a revised accountability framework designed to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616(a)(2) of the IDEA requires that the primary focus of IDEA monitoring be on improving educational results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements.

OSEP's previous accountability system placed a heavy emphasis on compliance and we have seen an improvement in States' compliance over the past seven years of IDEA determinations. OSEP's new accountability framework, called Results Driven Accountability (RDA), brings into focus the educational results and functional outcomes for children with disabilities while balancing those results with the compliance requirements of IDEA. Protecting the rights of children with disabilities and their families is a key responsibility of State educational agencies (SEAs) and local educational agencies (LEAs), but it is not sufficient if children are not attaining the knowledge and skills necessary to achieve the goals of IDEA as reflected in Congressional findings in section 601(c)(1) of the IDEA Improvement Act of 2004: equality of opportunity, full participation, independent living, and economic self-sufficiency.

From the start, OSEP committed to several key principles to guide the development of a new accountability framework, including transparency, stakeholder involvement, and burden reduction. In keeping with these principles, over the past two years we have solicited input from stakeholders on multiple occasions and published a new SPP/APR for FFYs 2013 through 2018. The revised SPP/APR significantly reduces data collection and reporting burden by States, and shifts the focus to improving educational results and functional outcomes for children with disabilities by requiring each State to develop and implement a State Systemic Improvement Plan (SSIP).

The Department is committed to supporting States in the development and implementation of the SSIP which is designed to improve results for all children, including children with disabilities, and is investing significant resources toward that commitment. OSEP is implementing a system of differentiated monitoring and support, using data on performance (i.e., results data) and other information about a State to determine the appropriate intensity, focus, and nature of the oversight and support that each State will receive as part of RDA. OSEP's technical assistance network will be a key component of differentiated support to States and, through States, to local programs. We believe that only through a coordinated effort across the education system will we positively affect the school and life trajectories of children with disabilities.

In making determinations in 2013, the Department used a compliance matrix that included compliance data on multiple factors, thereby allowing us to consider the totality of a State's compliance data. In the 2013 determination letters, OSEP informed States that it would use results data when making determinations in 2014. OSEP published a Request for Information to solicit comments regarding how results data could be used in making IDEA determinations in 2014 and beyond, and has carefully reviewed these comments in deciding how to use results data in making determinations in 2014.

Your State's 2014 determination is based on the data reflected in the State's "2014 Part B Compliance Matrix" and "2014 Results Driven Accountability Matrix." Enclosed with this determination letter are the following: (1) the State's "2014 Part B Compliance Matrix" and "2014 Results Driven Accountability Matrix;" (2) a document entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2014: Part B," which provides a detailed description of how OSEP evaluated States' data using the Compliance and RDA Matrices; (3) your State's FFY 2012 Response Table, which provides OSEP's analysis of the State's FFY 2012 APR and revised SPP; and (4) a Data Display, which presents certain State-reported data in a transparent, user-friendly manner. The Data Display will be posted on OSEP's Web site and will be helpful for the public in getting a broader picture of State performance in key areas.

For the 2014 determinations, the Department is using results data on the participation of children with disabilities on regular Statewide assessments; the proficiency gap between children with disabilities and all children on regular Statewide assessments; and the performance of children with disabilities on the National Assessment of Educational Progress (NAEP). At this time, we can meaningfully use data on the participation rate, and proficiency gap, on regular Statewide assessments. We plan to measure growth in the proficiency of children with disabilities when States have transitioned to college- and career- ready standards and assessments. In the interim, we are using data from NAEP on the performance of children with disabilities, which provide a consistent and fair benchmark for performance of children across all States. In the future, OSEP plans to use only regular Statewide assessment data, rather than NAEP data, for annual determinations, including data on the growth in proficiency of children with disabilities on Statewide assessments.

As noted above and further explained in the enclosures to this letter, the Department has determined that the District of Columbia needs intervention in implementing the requirements of Part B of the IDEA. The Department identifies a State as needing intervention under IDEA Part B if its RDA Percentage is less than 60%. D.C.'s RDA Percentage is 54.55%.

## **I. Major Factors Contributing to D.C.'s 2014 RDA Needs Intervention Determination**

### **A. Performance for Indicator 13**

Data on Secondary Transition: The data D.C. provided in its FFY 2012 APR and the progress reports describing how D.C. is meeting the Special Conditions attached to its FFY 2013 IDEA Part B grant award (Special Conditions progress reports) demonstrate continued noncompliance with the secondary transition requirements in IDEA section 614(d)(1)(A)(i)(VIII) and 34 CFR §§300.320(b) and 300.321(b). 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. In its FFY 2012 APR, D.C.'s reported data for Indicator 13 were 40 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.<sup>1</sup>

As demonstrated in its FFY 2013 Special Conditions progress reports, D.C. did not meet the Special Condition imposed on its FFY 2013 IDEA Part B grant award to ensure compliance with secondary transition requirements. In the State's May 15, 2014 Special Conditions progress report, amended June 5, 2014, D.C. reported data for the period October 1, 2013 through March 31, 2014, that reflect 46 percent compliance with secondary transition requirements. While these data reflect some progress from the FFY 2012 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).

2013 Enforcement Action: D.C.'s low level of compliance with secondary transition requirements was a factor in the State's 2013 needs intervention determination.<sup>2</sup> In addition, as noted above, because D.C. did not ensure compliance with the secondary transition requirements, the Department continued to impose Special Conditions on D.C.'s FFY 2013 IDEA Part B grant

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<sup>1</sup> 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. 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.

<sup>2</sup> The Department's 2013 determination was 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 award, and other publicly available information.

award in this area. In OSEP’s July 1, 2013 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.<sup>3</sup> 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 2013 State-level funds under IDEA section 611(e) to address noncompliance with the secondary transition requirements. The Secretary authorized D.C. to use the directed funds for other purposes if the State elected to direct LEAs that demonstrated noncompliance with the secondary transition requirements to use \$250,000 of their FFY 2013 IDEA Part B funds to address noncompliance with these requirements (the combined amount of State-level and/or LEA-level funds was required to total the amount directed by the Department).<sup>4</sup>

In Section VI of its FFY 2013 CAP, submitted August 2, 2013, 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 2013 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, 2014; and (4) an explanation of how the activities would address noncompliance with secondary transition requirements.

Status of Directed Use of FFY 2013 and Remaining FFY 2012 State-level IDEA Part B Funds:

With its May 15, 2014 CAP progress report,<sup>5</sup> amended June 6, 2014, the State provided documentation that reflects that, as of March 31, 2014, D.C. had obligated \$49,500 of the \$250,000 in directed FFY 2013 IDEA Part B funds to address noncompliance with secondary transition requirements. The FFY 2013 Special Conditions and the Department’s July 1, 2013 determination letter require D.C. to provide an updated report on the use of the remaining directed FFY 2013 funds by August 1, 2014.

We note that, with its May 15, 2014 CAP progress report, amended June 6, 2014, D.C. provided documentation that demonstrates that the State used the full amount of the \$250,000 in directed FFY 2012 IDEA Part B State-level funds to address noncompliance with secondary transition requirements as required by the Department’s June 28, 2012 determination letter. Therefore, no further reporting on the use of these funds is required.

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<sup>3</sup> The Special Conditions imposed on D.C.’s FFY 2013 IDEA Part B grant award incorporate the enforcement actions described in the Department’s July 1, 2013 determination letter, including the requirement to provide CAP progress reports and report on the use of the directed funds.

<sup>4</sup> D.C. reported during OSEP’s November 2009 verification visit that its system of progressive sanctions and enforcement options to address uncorrected noncompliance includes directing the LEA’s use of IDEA Part B funds.

<sup>5</sup> D.C. submits two reports: a CAP progress report and a Special Conditions progress report. The CAP progress report addresses D.C.’s progress in implementing the strategies and activities identified in its CAP, which D.C. is carrying out to ensure compliance with each of the areas that were the bases for its 2013 needs intervention determination. D.C. also reports on the status of the use of its directed funds as part of the CAP progress reports. The Special Conditions progress reports require D.C. to provide updated student-specific data related to areas of longstanding noncompliance and information related to timely correction of noncompliance.

## **B. Longstanding Noncompliance**

### **1. Timely Correction of Noncompliance**

D.C. did not meet the Special Condition imposed on its FFY 2013 IDEA Part B grant award to ensure timely correction of noncompliance, which was first imposed on the State's FFY 2005 IDEA Part B grant award and has continued to apply to each IDEA Part B grant award 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 2012 reported data for Indicator 15 (timely correction) were 77 percent. D.C. reported in its May 15, 2014 Special Conditions progress report, amended June 5, 2014, that 460 of the 658 findings of noncompliance identified in FFY 2012, for which the one-year timeline has expired, were corrected in a timely manner (69.9 percent). D.C. has not achieved compliance with the requirement to ensure that identified 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).

### **2. Timely Initial Evaluations and Reevaluations**

D.C. did not meet the Special Condition imposed on its FFY 2013 IDEA Part B grant award 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 award 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.

2013 Enforcement Action: Noncompliance with the requirement to ensure timely initial evaluations and reevaluations was also a factor in the State's FFY 2013 needs intervention determination. In addition, as noted above, because D.C. did not ensure compliance with timely initial evaluation and reevaluation requirements, the Department continued to impose Special Conditions on D.C.'s FFY 2013 IDEA Part B grant award in this area. In OSEP's July 1, 2013 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 requirements 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 \$125,000 of the State's FFY 2013 State-level funds under IDEA section 611(e) to address the longstanding noncompliance with the requirements to ensure timely initial evaluations and reevaluations.<sup>6</sup> The Secretary authorized D.C. to use the 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 their IDEA Part B funds to reduce the backlog of overdue initial evaluations and reevaluations (the combined

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<sup>6</sup> In prior years in which D.C. received a "needs intervention" determination, due in part to noncompliance with the requirements to ensure timely initial evaluations and reevaluations, the Department required D.C. to use \$500,000 of its FFY 2010 IDEA Part B State-level funds, \$500,000 of its FFY 2011 IDEA Part B State-level funds, \$250,000 of its FFY 2012 IDEA Part B State-level funds, and \$125,000 of its FFY 2013 IDEA Part B State-level funds to reduce the backlog of overdue initial evaluations and reevaluations and increase progress with ensuring timely initial evaluations and reevaluations.

amount of State-level and/or LEA-level funds was required to total the amount directed by the Department).

In Section VI of its FFY 2013 CAP, submitted August 2, 2013, the State reported it would use \$125,000 of its FFY 2013 State-level funds to “support activities related to improvement in compliance with initial evaluations and reevaluation timelines.” The State provided its proposed spending plan 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, 2014; and (4) an explanation of how the activities would address noncompliance with secondary transition requirements.

Status of Directed Use of FFY 2013 and Remaining FFY 2012 State-level IDEA Part B Funds:

With its May 15, 2014 CAP progress report, amended June 6, 2014, the State provided documentation that reflects that, as of March 31, 2014, none of the \$125,000 in directed FFY 2013 IDEA Part B funds were used to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations. D.C. reported that it had used \$5,392 in “local funds administered by the State, with a plan to replace these funds with FFY 2013 grant funds.” The FFY 2013 Special Conditions and the Department’s July 1, 2013 determination letter require D.C. to provide an updated report on the use of the directed FFY 2013 funds by August 1, 2014.

We note that, with its May 15, 2014 CAP progress report, amended June 6, 2014, D.C. provided documentation that demonstrates that the State used \$125,000 of its FFY 2012 IDEA Part B State-level funds to reduce the backlog of overdue initial evaluations and reevaluations and increase progress toward ensuring timely initial evaluations and reevaluations as required by the Department’s June 28, 2012 determination letter. Therefore, no further reporting on the use of these funds is required.

Compliance Data: In its May 15, 2014 Special Conditions progress report, amended June 5, 2014, the State reported that for the period October 1, 2013 through March 31, 2014, 96 percent of children were provided a timely initial evaluation. D.C. has made marked improvement in ensuring timely initial evaluations and reducing the backlog of overdue initial evaluations. In its last four Special Conditions progress reports, which address the total time period of January 1, 2013 through March 31, 2014, the State reported compliance data that range from a low of 92 percent (April 1, 2013 through June 30, 2013) to 96 percent (October 1, 2013 through March 31, 2014). The number of children reported as having overdue initial evaluations at the conclusion of the reporting period ranges from 34 children (January 1, 2013 through March 31, 2013) to 20 children (October 1, 2013 through March 31, 2014).

D.C. has also demonstrated progress in ensuring timely reevaluations, with 90 percent of children provided a timely reevaluation in both the July 1, 2013 through September 30, 2013 and October 1, 2013 through March 31, 2014 reporting periods. However, the State continues to report a considerable number of children in the backlog with overdue reevaluations – 90 for the July 1, 2013 through September 30, 2013 reporting period and 94 at the end of the October 1, 2013 through March 31, 2014 reporting period.

Although D.C. has made progress in ensuring timely initial evaluations and reevaluations and reducing the backlog of children with overdue initial evaluations and reevaluations, the State 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.

**C. RDA: Results Performance Percentage**

D.C.'s Results Performance Percentage is 50 percent. D.C.'s data on the National Assessment of Educational Progress (NAEP) for school year 2012-2013 reflect that that the District of Columbia's fourth and eighth grade students with disabilities are generally unable to demonstrate mastery of the prerequisite knowledge and skills that are fundamental for proficient work at each grade and content area. As a result, D.C. received a score of zero on the results elements that reflect the performance of the State's fourth and eighth graders on the NAEP reading and math assessments. (See RDA Matrix)

**II. RDA Determination and Enforcement Action**

D.C.'s determination for the FFY 2005, 2006, 2007, 2008, 2009, 2010, and 2011 APRs was "needs intervention." This is now the eighth 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 section 616(e)(1)(A), that the Secretary may advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance and require the State to work with appropriate entities. In addition, under section 616(e)(1)(B), 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 the areas identified below. 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 major areas of noncompliance that contributed to its needs intervention determination within one year from this letter, and that other enforcement remedies under IDEA section 616(e)(2)(B) are not appropriate at this time to address these areas of noncompliance.

To ensure that D.C. can increase compliance with secondary transition requirements, improve the timely correction of noncompliance, reduce the backlog of overdue initial evaluations and

reevaluations, and increase progress toward ensuring timely initial evaluations and reevaluations within one year, D.C. must accelerate the development and implementation of appropriate corrective measures. In order to ensure the effective use of the directed FFY 2014 funds described below, the Department is also requiring that D.C. officials meet with OSEP staff to identify, through a review of D.C.'s data related to reevaluations and secondary transition, evidence-based activities that are designed to improve the State's compliance with the requirements.

This meeting must occur no later than August 1, 2014 and D.C. must submit its CAP within 15 days of the date of the meeting.

In its CAP, D.C. must address the actions the State 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; and
- (3) 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) \$125,000 of its FFY 2014 State-level funds under IDEA section 611(e) to further reduce the backlog of overdue reevaluations and increase progress toward ensuring timely reevaluations;<sup>7</sup> and (2) \$250,000 of its FFY 2014 State-level funds under IDEA section 611(e) to address noncompliance with secondary transition requirements. The Secretary authorizes D.C. to use the 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 2014 IDEA Part B funds to reduce the backlog of overdue reevaluations and increase progress toward ensuring timely reevaluations; and (2) \$250,000 of their FFY 2014 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 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 reevaluation results in a delay in the determination of whether a child continues to be a child

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<sup>7</sup> Given the State's progress in reducing the backlog of overdue initial evaluations and ensuring timely initial evaluations, the Department is not directing D.C. to use any of its FFY 2014 State-level funds under IDEA section 611(e) for these purposes. D.C. must, however, ensure that any of the remaining directed FFY 2013 State-level funds are used to carry out the activities in its FFY 2013 spending plan as required, even if those activities are designed to address the backlog of overdue initial evaluations and ensure timely initial evaluations.

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 reevaluations, increase progress toward ensuring timely reevaluations, and increase compliance with secondary transition requirements.

In addition, to ensure that D.C. can reduce the backlog of overdue reevaluations, increase progress toward ensuring timely reevaluations, and increase compliance with secondary transition requirements within one year, D.C. must expedite the use of the directed FFY 2014 IDEA Part B funds. We note that the State encountered multiple challenges in using the directed FFY 2013 IDEA Part B funds in a manner that ensures that the full amount of these funds are used by July 1, 2014 as required.

At the meeting of D.C. officials and OSEP staff described in Section II.A above, participants will identify, based on a review of D.C.'s data on these issues, how the directed funds may best be targeted to achieve improved compliance with the requirements for timely reevaluations and secondary transition, and be used by July 1, 2015. This meeting must occur no later than August 1, 2014 and D.C. must submit its written plan for how it intends to use the directed FFY 2014 funds within 30 days of the date of the meeting.

### **C. Technical Assistance**

Pursuant to IDEA section 616(e)(1)(A) and (2)(A), the Secretary is advising the State of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at the following Web site: <http://www.tadnet.org/> and requiring the State to work with appropriate entities. In addition, the State should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <http://www2.ed.gov/programs/newccp/index.html>. The Secretary directs D.C. to access technical assistance related to those results elements for which the State received a score of zero. D.C. must report with its FFY 2013 SPP/APR submission, due February 2, 2015, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance.

### **D. Meeting and Reporting Requirements**

1. No later than August 1, 2014, D.C. must meet with OSEP to review D.C.'s data and to discuss how the directed funds may best be targeted to achieve improved compliance with the requirements to ensure timely reevaluations and compliance with secondary transition.
2. No later than August 1, 2014, D.C. must report the information required by OSEP's FFY 2013 IDEA Part B grant award letter, Enclosure E, Special Conditions, dated July 1, 2013, regarding: (a) the use of the remaining directed FFY 2013 State-level funds under IDEA section 611(e); and (b) the data required in Sections 2.b.(A) timely initial and reevaluations and 2.b.(D) secondary transition for the period April 1, 2014 through June 30, 2014.
3. No later than September 2, 2014, D.C. must report whether it intends to use \$125,000 of its FFY 2014 State-level funds, direct those LEA(s) that demonstrated noncompliance to use their FFY 2014 IDEA Part B funds, or use a portion of its FFY 2014 State-level funds and

direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2014 IDEA Part B funds (the combined amount of State-level and LEA-level FFY 2014 IDEA Part B funds must total \$125,000) to reduce the backlog of overdue reevaluations and increase progress toward ensuring timely reevaluations. D.C. must also report whether it intends to use \$250,000 of its FFY 2014 State-level funds, direct those LEA(s) that demonstrated noncompliance to use their FFY 2014 IDEA Part B funds, or use a portion of its FFY 2014 State-level funds and direct those LEA(s) that demonstrated noncompliance to use a portion of their FFY 2014 IDEA Part B funds (the combined amount of State-level and LEA-level FFY 2014 IDEA Part B funds must total \$250,000) to address noncompliance with secondary transition requirements.

In addition, with this report, D.C. must provide a proposed spending plan that includes the information required in the Special Conditions that OSEP will impose on the State's FFY 2014 IDEA Part B grant award. The spending plan must detail how the FFY 2014 State-level funds under IDEA section 611(e) will be used by July 1, 2015. D.C. must also describe the documentation it will provide to demonstrate the funds were used in accordance with the spending plan.

4. On November 3, 2014, February 2, 2015, and May 1, 2015, D.C. must report on the use of the directed funds and any other information required by the Special Conditions that OSEP will impose on the State's FFY 2014 IDEA Part B grant award.
5. With its FFY 2013 SPP/APR submission, due February 2, 2015, D.C. must report on: (a) the technical assistance sources from which it received assistance; and (b) the actions it took as a result of that technical assistance.

### **III. IDEA Part B Special Conditions: Timely Implementation of Hearing Officer Determinations and Early Childhood Transition**

We acknowledge D.C.'s progress in addressing two specific areas, including one that represented longstanding noncompliance with critical IDEA requirements. During FFY 2013, D.C. reported updated data that demonstrates improvement in ensuring timely implementation of hearing officer determinations (HODs) as required by IDEA section 615(f) and (i) and compliance with early childhood transition requirements (IDEA section 612(a) and 34 CFR §300.124(b)).

D.C. has made significant progress in ensuring HODs are implemented in a timely manner. The State reported 1,432 hearing decisions had not been implemented in a timely manner for the three-month period, June 1, 2005 through August 30, 2005. Between 2005 and 2014, the number of due process hearing decisions that have not been implemented in a timely manner has steadily decreased. In its May 15, 2014 Special Conditions progress report, amended June 5, 2014, D.C. reported that, during the October 1, 2013 through March 31, 2014 reporting period, 13 HODs were not implemented in a timely manner; at the end of that reporting period, three children in the District of Columbia had not had their HODs implemented in a timely manner. We appreciate D.C.'s efforts to ensure HODs are implemented in accordance with the IDEA requirements.

With respect to early childhood transition, D.C. has made significant progress. In its FFY 2008 APR, D.C. reported 8 percent of children referred by Part C prior to age three, who are found eligible for Part B, had an IEP developed and implemented by their third birthdays. In its FFY 2012 APR, D.C. reported a compliance rate of 96 percent with early childhood transition

requirements. Also, D.C. provided updated data in its May 15, 2014 Special Conditions progress report, amended June 5, 2014, that reflects a compliance rate of 98 percent for the July 1, 2013 through March 31, 2014 reporting period.

Based on the data submissions D.C. has submitted in FFY 2013, we have concluded that D.C. has satisfied the IDEA Part B Special Conditions related to these two areas. We appreciate the steps D.C. has taken to address the noncompliance related to these key IDEA requirements. OSEP expects that the D.C. Office of the State Superintendent of Education (OSSE) will continue to diligently monitor these areas to ensure the State sustains a high level of performance.

We appreciate D.C.'s continued efforts to establish an SEA that has the capacity to administer the IDEA Part B grant award and support its LEAs through monitoring, technical assistance, and training. We believe that the implementation of the enforcement actions described in this letter will support D.C.'s efforts to improve compliance and results for students with disabilities and their families.

#### **IV. Conclusion**

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, Acting 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.

As a reminder, 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 2012 APR. In addition, your State must: (1) review LEA performance against targets in the State's SPP; (2) determine if each LEA "meets the 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. Finally, please ensure that your APR, updated SPP, and report on the performance of each LEA located in the State on the targets in the SPP are posted on the SEA's Web site and made available to the public.

Lisa Pagano, OSEP's Part B State Contact for the District of Columbia, will contact Amy Maisterra, OSSE's Assistant Superintendent for Elementary, Secondary, and Specialized Education, to arrange the required meeting referenced in Section II of this letter. OSEP appreciates the State'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 Ms. Pagano at 202-245-7413.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

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

Enclosures

cc: State Director of Special Education