

Enclosure E

Special Conditions

1. Basis for Requiring Special Conditions

Pursuant to 34 CFR §80.12, the Office of Special Education Programs (OSEP) is imposing Special Conditions on the District of Columbia's (DCPS) Federal Fiscal Year (FFY) 2007 grant awards under Part B of the Individuals with Disabilities Education Act (Part B), related to the State's failure to:

1) Provide timely initial evaluations and reevaluations

- a. An initial evaluation that meets the requirements of section 614(a)(1), (b) and (c) of Part B of the IDEA and 34 CFR §300.301(c)(1) must be completed for all children with disabilities, and an appropriate placement must be made within the maximum number of days established by the State's policy.¹ See also, section 612(a)(7) of IDEA. According to data submitted by DCPS under the FFY 2006 Special Conditions, DCPS had not achieved compliance with the requirement of ensuring that all initial evaluations were completed and placements made in a timely manner. At the end of the final reporting period for FFY 2006, 364 initial evaluations and placements had not been completed in a timely manner, with an average number of overdue days of 53.² This represents an increase of 19 from the number of initial evaluations and placements that had not been completed in a timely manner at the end of the final reporting period for FFY 2005 and a decrease of three days in the average number of overdue days.

DCPS reports that 41 percent of initial evaluations and placements were provided within the required timeline to children with disabilities whose initial evaluation deadlines fell within the final reporting period. Although there has been an increase in the percent of initial evaluations completed within the required timeline for children with disabilities whose initial evaluation deadlines fell within the final reporting period, the State continues to demonstrate noncompliance with the

¹ Section 614(a)(1)(C)(i)(I) and 34 CFR §300.301(c)(1) require that an initial evaluation be conducted within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe. Section 38-2501(a) of the D.C. Code states that DCPS must "assess or evaluate a student, who may have a disability and who may require special education services, within 120 days from the date that the student was referred for an evaluation or assessment". Section 3010.2 of Chapter 30 of the D.C. Municipal Regulations states "the timeliness for assessment and placement must be as follows: 60 working days to conduct an assessment, and 30 working days to propose an adequate placement of a child who can be placed within a special education program operated by a District of Columbia agency; and 60 working days to conduct an assessment, and 60 working days to propose an adequate placement of a child who must be placed in a private or residential special education program". Page 5 of the Procedural Manual for Parents (as revised July 2005) states that "under District of Columbia law, the LEA has no more than 120 calendar days after the date a child is referred for evaluation to determine his/her eligibility for special education services, develop the individualized education program (IEP) and begin delivery of appropriate special education and related services".

² OSEP cannot determine why the number reported in (d) of this section of the State's FFY 2006 Special Conditions Progress Report is not (a) + (b) - (c).

requirement of ensuring that all initial evaluations are completed within the State-established timeline.

Based upon the above, OSEP concludes the State did not satisfy this Special Condition.

- b. A reevaluation that meets the requirements of section 614(a)(2), (b), and (c) of Part B of the IDEA and 34 CFR §300.303 must be completed for each child with a disability no later than 36 months after the date on which the previous evaluation or reevaluation was completed, unless the parent and the local educational agency agree that a reevaluation is unnecessary.³ According to data submitted by DCPS under the FFY 2006 Special Conditions, DCPS had not achieved compliance with the requirement of ensuring that all reevaluations of children with disabilities were conducted in a timely manner. At the end of the final reporting period for FFY 2006, 2,257 reevaluations had not been conducted in a timely manner, with an average number of overdue days of 67.⁴ DCPS reports that 41 percent of triennial reevaluations were provided within the required timeline to children with disabilities whose reevaluation deadlines fell during the final reporting period.⁵

DCPS did not provide a description of the strategies it is implementing to reduce the number of overdue initial evaluations and placements and/or reevaluations, and, if there was no progress in reducing the number of overdue initial evaluations and placements and/or reevaluations, an explanation for this lack of progress and a reevaluation of the procedures it is implementing to reduce the number of overdue initial evaluations and placements and/or reevaluations,

Based upon the above, OSEP concludes the State did not satisfy this Special Condition.

2) Implement due process hearing decisions in a timely manner

Independent hearing officer determinations must be implemented within the time frame prescribed by the hearing officer, or if there is no time frame prescribed by the hearing officer, within a reasonable time frame set by DCPS, as required by section 615(f) and (i) of Part B of the IDEA. According to data submitted by DCPS under the FFY 2006 Special Conditions, DCPS had not achieved compliance with the requirement of ensuring that all due process hearing decisions were implemented in a timely manner. At the end of the final reporting period under the FFY 2006 Special Conditions, 1,221 hearing decisions have not

³Section 614(a)(2) and 34 CFR §300.303 require that a reevaluation occur at least once every three years, unless the parents and the local educational agency agree that a reevaluation is unnecessary.

⁴ OSEP cannot determine why the number reported in (d) of this section of the State's final FFY 2006 Special Conditions Progress Report is not (a) + (b) - (c).

⁵ DCPS reports that the data includes both "triennial" reevaluations and reevaluations requested "out of cycle". During the FFY 2005 reporting period, DCPS was able to provide data that specifically addressed the timeliness of "triennial" reevaluations. Because the data reported for FFY 2005 related to triennial reevaluations only, the Department cannot make comparisons between the data for FFY 2005 and FFY 2006.

been implemented in a timely manner.⁶ While this represents a decrease of 67 from the number of hearing decisions that had not been implemented in a timely manner at the end of the final reporting period for FFY 2005, DCPS is unable to report the FFY 2006 data on the percent of hearing officer determinations that were implemented in a timely manner during the reporting period and reported 0%.

Other than stating that the number of hearing requests has decreased, DCPS did not provide a description of the strategies it is implementing to reduce the number of children whose hearing officer determinations are not implemented in a timely manner, and did not fully address any remaining barriers to the timely implementation of hearing officer decisions (those with a time frame set by the hearing officer and those without a time frame set by the hearing officer) and the steps being taken to remove those barriers.

Based upon the above, OSEP concludes the State did not satisfy this Special Condition.

3) Ensure placement in the least restrictive environment

All children with disabilities must be placed in the least restrictive environment appropriate to their individual needs, as required by section 612(a)(5)(A) of Part B of the IDEA and 34 CFR §§300.114 through 300.120 (formerly 34 CFR §§300.550 through 300.556). During its March 26, 2001 compliance monitoring review of DCPS, OSEP collected data to determine whether DCPS was ensuring that all children with disabilities were placed in the least restrictive environment. OSEP determined that decisions regarding the educational placement of children with disabilities were not based on the individual needs of the child, but rather on other factors. Personnel reported that placement decisions were affected by the lack of modifications and accommodations available in the regular class setting and the limited capacity of DCPS to serve children with disabilities along each point of the continuum of alternative placements. OSEP found that DCPS was not ensuring that children with disabilities are placed in the least restrictive environment appropriate to their needs.

With the implementation of DCPS' monitoring system, OSEP required, in the FFY 2004 Special Conditions, that DCPS provide the results of its monitoring efforts, highlighting any findings and required corrective actions related to placement of children with disabilities in the least restrictive environment, including information obtained from record reviews and staff and parent interviews. During FFY 2004, DCPS provided no monitoring data or other documentation to OSEP to demonstrate students with disabilities are placed in the least restrictive environment consistent with the requirements.

Under the FFY 2005 Special Conditions, DCPS was required to provide OSEP with monitoring reports issued as a result of the first cyclical monitoring of the High School and Middle/Junior High School divisions and monitoring data for all elementary schools monitored through the Spring 2005, highlighting any findings and corrective action plans related to placement of children with disabilities in the least restrictive environment. In the FFY 2005 Special Conditions OSEP stated that the monitoring reports should include the results of interviews with members of the placement teams and reviews of the individualized

⁶ OSEP cannot determine why the number reported in (d) of this section of the State's final FFY 2006 Special Conditions Progress Report is not (a) + (b) - (c).

education programs of children with disabilities who do not participate for all, or part of, the day in the regular class in order to determine if the placement decisions were made consistent with the requirements at 34 CFR §§300.114 through 300.120. In addition, DCPS was to report on any follow-up activities it had carried out to ensure the corrective action plans resulted in the correction of noncompliance related to implementation of least restrictive environment requirements.

DCPS' submissions to OSEP during the FFY 2005 reporting period did not provide sufficient information to demonstrate that the State monitored its local educational agencies for compliance with each of the least restrictive environment provisions of the IDEA. Further, in those instances when the State did identify noncompliance, there was no evidence that the State ordered corrective measures to ensure correction of noncompliance related to the least restrictive environment requirements. As a result, OSEP determined that although DCPS initiated a process to monitor its local educational agencies to ensure placement of children with disabilities in the least restrictive environment, the State had not demonstrated it was fully meeting its responsibilities under 34 CFR §§300.114 through 300.120 and did not satisfy the Special Conditions imposed on DCPS' FFY 2005 grant award.

Under the FFY 2006 Special Conditions, the State was required to provide two progress reports to the Department. The first report, due February 1, 2007, required DCPS, as part of its response to Indicator 15 in the FFY 2005 APR, to submit data that included the number of findings of noncompliance identified in its December 8, 2005 monitoring reports on the least restrictive environment requirements and the number and percent of those findings that were corrected within one year of identification. For any findings of noncompliance related to the implementation of the least restrictive environment requirements that were not corrected by December 8, 2006, the State was required to provide a description of any actions that the State has taken, including enforcement actions, to ensure correction of the finding(s). The State was also required to provide an explanation of the process, including standards, it used to calculate the levels of compliance reported in the June 26, 2006 Addendum to the State's final FFY 2005 Special Conditions progress report related to implementation of the least restrictive requirements at section 612(a)(5)(a) of Part B of the IDEA and 34 CFR §§300.114 through 300.120. Additionally, the FFY 2006 Special Conditions required DCPS to submit copies of monitoring reports issued since July 1, 2006 that include the State's findings as to whether the educational placement decisions were made consistent with the least restrictive environment provisions of the IDEA at 34 CFR §§300.114 through 300.120.

In its June 15, 2007 correspondence OSEP responded to the State's FFY 2006 Special Conditions progress report, dated February 1, 2007. OSEP noted that the State reported inconsistent information regarding the number of findings made related to implementation of the least restrictive environment requirements. The State reported 7 findings of noncompliance were made in the High School and Middle/Junior High School divisions. However, the State also reported that 8 of 9 findings related to the least restrictive environment provisions were corrected within one year of identification for a timely correction rate of 89%. While the State indicated that "technical assistance" was provided, it did not provide any further information regarding any actions, including enforcement actions, taken to ensure correction of uncorrected noncompliance. The State did not provide an explanation of the process, including standards, it used to calculate the levels of compliance reported in the June 27, 2006 Addendum to the State's June 16, 2006 FFY 2005 Special

Conditions final progress report related to implementation of the LRFI requirements in the High and Middle/Junior High School divisions as required by the FFY 2006 Special Conditions.

With its February 1, 2007 APR, the State provided copies of monitoring reports for the Elementary School division and reports for nine charter schools (four of the charter schools are LEA charters; the remaining five charter schools are public schools of DCPS for IDEA purposes). Based upon the information provided in those reports, OSEP concluded that the State does not appear to have a clear understanding of the least restrictive provisions that must be monitored, and the results documented, in order to meet its responsibilities under section 612(a)(5)(A) of the IDEA and 34 CFR §§300.114 through 300.120 and to satisfy this Special Condition. For example, the findings of noncompliance DCPS identified as being related to the least restrictive environment provisions of the IDEA do not reflect the legal requirements of 34 CFR §§300.114 through 300.120.

The FFY 2006 Special Conditions required a second progress report, due June 1, 2007, in which DCPS was required to provide updated information on the data provided in the State's response to Indicator 15 in the FFY 2005 APR on the number and percent of findings of noncompliance the State identified in the December 8, 2005 monitoring reports on implementation of least restrictive environment requirements that were corrected since the February 1, 2007 Progress Report. For any findings of noncompliance related to the implementation of the least restrictive environment requirements that remained uncorrected from the December 8, 2005 monitoring reports, the State was required to provide a description of any actions that the State has taken, including enforcement actions, to ensure correction of the finding(s) and the results of the State's analysis of factors that contributed to the results of any continuing noncompliance, and the strategies the State implemented to address those.

The FFY 2006 Special Conditions required DCPS to submit any monitoring reports issued since the February 1, 2007 Progress Report, that include the State's findings as to whether educational placement decisions were made consistent with the least restrictive environment provisions of the IDEA at 34 CFR §§300.114 through 300.120. The State was also required to provide an update on the number of findings of noncompliance related to the least restrictive environment requirements made in all of the monitoring reports issued after July 1, 2006, the corrective actions imposed, the number and percent of those findings that were corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure corrective actions were implemented and the noncompliance corrected within one year of identification.

DCPS' FFY 2006 Special Conditions Progress Report dated June 1, 2007, included a copy of two documents: "*MDJ Notes Guidelines*" and "*Placement Guidelines*". However, the State did not provide an explanation of how these documents support the State's efforts to ensure compliance with IDEA's least restrictive environment requirements and whether these documents have been used and the results of the State's efforts.

DCPS did not provide any updated data since its February 1, 2007 FFY 2006 Special Conditions Progress Report regarding actions taken to ensure compliance with the least restrictive environment requirements, including correction of the remaining finding(s) of noncompliance in the December 8, 2005 monitoring reports or steps taken to address any

continuing noncompliance. The State did not submit any additional monitoring reports or state whether other monitoring activities have been conducted to ensure local educational agencies comply with the least restrictive environment provisions of the IDEA.

Section 616(a)(3) of the IDEA and 34 CFR §300.600(d) require the Department to monitor States and require each State to monitor the local educational agencies located in the State to adequately measure performance in certain priority areas, including the provision of a free appropriate public education in the least restrictive environment. In addition, the regulations at 34 CFR §§300.119 and 300.120 require States to carry out technical assistance, training, and monitoring activities to ensure each public agency implements the least restrictive environment requirements at 34 CFR §300.114. Further, if there is evidence that a public agency makes educational placements that are inconsistent with the least restrictive environment requirements at 34 CFR §300.114, the State must review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action.

DCPS has demonstrated longstanding noncompliance related to ensuring the education of students with disabilities in the least restrictive environment consistent with federal requirements. Our review of the State's monitoring reports for the nine charter schools and High, Middle/Junior High and Elementary Schools divisions indicates the monitoring activities carried out by DCPS do not address whether placement decisions are made consistent with the least restrictive environment requirements in 34 CFR §300.114. Therefore, OSEP concludes DCPS has not demonstrated that it monitors its local educational agencies to ensure compliance with the least restrictive environment requirements in 34 CFR §300.114, in accordance with 34 CFR §§300.600 and 300.120 and has not met this Special Condition. We strongly recommend that DCPS continue to utilize technical assistance from the Mid-South Regional Resource Center that is directed toward improving the State's effectiveness in monitoring the State's local educational agencies to ensure compliance with the least restrictive environment provisions of the IDEA.

4) Identify and correct noncompliance

Section 612(a)(11) of Part B and 34 CFR §300.149 require States to ensure that each educational program for children with disabilities administered within the State is under the general supervision of individuals responsible for educational programs for children with disabilities in the State education agency. Section 616(a)(1)(C) of Part B requires States to monitor implementation of Part B by local educational agencies. The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in 34 CFR §§300.600 through 300.602 and 300.606 through 300.608. See also 20 U.S.C. 1232d(b)(3).

OSEP conducted a review in the District of Columbia, ending the week of March 26, 2001, for the purpose of assessing compliance in the implementation of the IDEA and assisting DCPS in developing strategies to improve results for children with disabilities. OSEP's monitoring report issued on June 18, 2002 identified several areas of noncompliance, including DCPS' failure to exercise general supervisory responsibility by identifying deficiencies under the IDEA and ensuring that they are corrected in a timely manner, as required at 34 CFR §300.149 and 20 U.S.C. 1232d(b)(3). Because DCPS continued to

demonstrate noncompliance with these requirements, the Department imposed Special Conditions on the State's FFY 2005 grant award under Part B.

Under the FFY 2005 Special Conditions, OSEP required DCPS to submit the monitoring report(s) issued as a result of its first cyclical monitoring of the High School and Middle/Junior High School divisions, and monitoring data for all elementary schools, including charter schools that are public schools of DCPS, and charter schools established as local educational agencies. OSEP required that the documentation include corrective actions imposed, and activities undertaken by DCPS to ensure those corrective actions were implemented and identified noncompliance had been corrected within one year of identification. DCPS was also required to report on the mechanisms that it had in place to address persistent noncompliance (sanctions) and how and when they were imposed.

With its quarterly report submitted to OSEP on October 28, 2005, DCPS provided the monitoring reports for the High School and Middle/Junior High School divisions. DCPS subsequently informed OSEP that these reports were issued to the High School and Middle/Junior High School divisions on December 8, 2005. DCPS provided OSEP with the corrective action measures to be taken to correct the noncompliance identified in the two reports but provided no documentation during FFY 2005 that any of the findings of noncompliance identified in the monitoring reports were corrected.

In the March 30, 2006 response to DCPS' submission of its State Performance Plan, OSEP stated that although DCPS' monitoring system had positive components with the potential to improve compliance, DCPS has not effectively implemented its system so that noncompliance is identified and then corrected within a reasonable period of time, not to exceed one year from the date of identification. OSEP also expressed concern that: (1) some of the findings contained within DCPS' December 2005 monitoring reports did not accurately reflect the legal requirements being monitored; (2) areas identified as effective and promising in practice should have been identified as areas of noncompliance under the IDEA; and, (3) there was no evidence DCPS included public charter high or middle/junior high schools that elect to operate as public schools within DCPS for the purposes of Part B of the IDEA.

DCPS' submissions to OSEP during the FFY 2005 reporting period did not provide sufficient information to demonstrate that the State effectively identified noncompliance and required corrective actions to ensure the correction of noncompliance consistent with the requirements at section 612(a)(11) and 616(a)(1)(C) of the IDEA, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3). Therefore, OSEP concluded that DCPS did not meet the Special Conditions imposed on the FFY 2005 grant award.

Under the FFY 2006 Special Conditions, the State was required to provide OSEP with two progress reports. In the first progress report, as part of its response to Indicator 15 in the FFY 2005 APR, due February 1, 2007, DCPS was required to submit data to OSEP that include the number of findings of noncompliance identified in the State's December 8, 2005 monitoring reports, and the number of corrections the State verified were completed as soon as possible but in no case later than one year from identification. For any findings of noncompliance identified in the December 8, 2005 monitoring reports that were not corrected by December 8, 2006, DCPS was required to provide a description of the actions that the State had taken, including enforcement actions, to ensure correction of the finding(s).

DCPS was also required to provide to OSEP the monitoring reports issued since July 1, 2006. DCPS was to report the number of findings of noncompliance made in monitoring reports issued after July 1, 2006, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure implementation of those corrective actions and correction of the noncompliance within one year of identification.

In its June 15, 2007 correspondence OSEP responded to the State's FFY 2006 Special Conditions Progress Report, dated February 1, 2007. Based upon the data the State reported in its "General Supervision Response" OSEP concluded the State's overall rate of correction of noncompliance identified in the December 8, 2005 monitoring reports within one year of identification is 78.5%. In its February 1, 2007 progress report, the State did not describe any actions, including enforcement actions, it had taken to ensure correction of remaining noncompliance identified in those monitoring reports.

The State submitted the monitoring reports for the Elementary Schools Division, dated July 10, 2006 and nine charter schools, dated July 12, 2006,⁷ and reported: (1) the number of findings of noncompliance made in these reports; (2) that corrective action plans have been received; and (3) the one year time frame for correction had not yet expired. No findings of noncompliance identified since July 1, 2006 were reported as having been corrected.

In OSEP's June 15, 2007 correspondence, the State was informed that OSEP remains concerned that: (1) LEAs should receive timely notification of noncompliance identified by the State through monitoring activities or other components of the State's system of general supervision; (2) some findings in the State's monitoring reports do not accurately reflect the legal requirements being monitored; (3) the State continues to highlight as "significant compliance," areas that should have been identified as noncompliance under the IDEA; and (4) the monitoring reports include conclusions that are not supported by the reported data.

For the second progress report, due June 1, 2007, DCPS was required to provide updated information on the data reported in the State's response to Indicator 15 in the FFY 2005 APR on the number and percent of findings of noncompliance identified in the State's December 8, 2005 monitoring reports that have been corrected since the February 1, 2007 FFY 2006 Special Conditions Progress Report. For any findings of noncompliance identified in the December 8, 2005 monitoring reports that remained uncorrected, DCPS was required to provide a description of the actions that the State has taken, including enforcement actions, to ensure correction of the finding(s).

DCPS was also required to provide an update on the number of findings of noncompliance made in all of the monitoring reports issued after July 1, 2006, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure those corrective actions are being implemented and the noncompliance will be corrected within one year of identification.

⁷ Although the charter school monitoring reports submitted by the State with its February 1, 2007 APR and FFY 2006 Special Conditions Progress Report are dated July 12, 2006, copies provided to OSEP in November 2006 were undated. OSEP had previously been informed by the State that these charter school monitoring reports were issued on October 4, 2006.

DCPS did not provide the required updated data regarding correction of any remaining uncorrected findings identified in the December 8, 2005 monitoring reports nor describe actions, including enforcement actions, taken to address any continuing noncompliance as required by the Special Conditions. Moreover, DCPS did not provide any response to this Special Condition in its June 1, 2007 Progress Report. Therefore, OSEP concludes DCPS has not demonstrated that it identifies and corrects noncompliance in accordance with the requirements in section 612(a)(11) and 616(a) of IDEA, 20 U.S.C. 1232d(b)(3), and 34 CFR §§300.149 and 300.600, and has not met this Special Condition.

2. Nature of the Special Conditions

The State must, pursuant to these Special Conditions, provide two Progress Reports, the first with the FFY 2006 Annual Performance Report (APR) that it will submit by February 1, 2008, and the second by June 1, 2008, that address the following areas of noncompliance:

A. Initial Evaluations and Reevaluations

In each progress report, DCPS must report the following:

1. Initial Evaluations
 - (a) the number of children who, as of the end of the previous reporting period, had been referred for, but not provided a timely initial evaluation and placement;
 - (b) the number of children referred for initial evaluation and placement whose initial evaluation and placement became overdue during the reporting period;
 - (c) the number of children from (a) and (b) above, who were provided initial evaluations and placements during the reporting period;
 - (d) the number of children who had not been provided a timely initial evaluation and placement at the conclusion of the reporting period; and
 - (e) the percent of timely initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period.
2. Reevaluations
 - (a) the number of children who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation;
 - (b) the number of children whose triennial reevaluation became overdue during the reporting period;
 - (c) the number of children from (a) and (b) above, who had been provided triennial reevaluations during the reporting period;
 - (d) the number of children who had not been provided a timely triennial reevaluation at the conclusion of the reporting period; and
 - (e) the percent of timely triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell during the reporting period.
3. DCPS must describe the strategies it is implementing to reduce the number of overdue initial evaluations and placements and/or reevaluations, and, if there is no progress in reducing the number of overdue initial evaluations and placements and triennial reevaluations, DCPS must provide an explanation for this lack of progress

and reevaluate the procedures it is implementing to reduce the number of overdue initial evaluations and placements and/or reevaluations.

4. DCPS must report the average number of days the initial evaluations and placements and/or reevaluations that had not been provided in a timely manner were overdue for each reporting period.

B. Implementation of Due Process Hearing Decisions

1. In each progress report, DCPS must provide the following information:
 - (a) The number of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the time frame established by the hearing officer or by DCPS;
 - (b) The number of children whose hearing officer determinations had not been implemented within the time frame established by the hearing officer or by DCPS (became overdue) during the reporting period;
 - (c) The number of children from (a) and (b) above whose hearing officer determinations were implemented during the reporting period;
 - (d) The number of children whose hearing officer determinations had not been implemented in a timely manner at the conclusion of the reporting period; and
 - (e) The percent of hearing officer determinations that had been implemented in a timely manner during the reporting period.
2. In each progress report, DCPS must describe the strategies it is implementing to reduce the number of children whose hearing officer determinations are not implemented in a timely manner, and address any remaining barriers to the timely implementation of hearing officer decisions (those with a time frame set by the hearing officer and those without a time frame set by the hearing officer) and the steps being taken to remove those barriers.

C. Ensure Placement in the Least Restrictive Environment

1. In the first progress report, due February 1, 2008, DCPS must provide OSEP with a written explanation of how the State is meeting its responsibilities under 34 CFR §§300.119, 300.120 and 300.600 to ensure each public agency complies with the least restrictive environment requirements at 34 CFR §300.114. This includes a description of the activities undertaken to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing the requirements of 34 CFR §300.114 and any technical assistance and training activities carried out by the State to assist public agencies in this effort, as required by 34 CFR §300.119.

If DCPS uses the "*MDT Notes Guidelines*" and "*Placement Guidelines*" provided in its June 1, 2007 FY 2006 Special Conditions Progress Report, DCPS must provide an explanation of how these documents are used to support the State's efforts to ensure compliance with 34 CFR §300.114, and provide the results. For any public agency that is found to make educational placements that are

inconsistent with 34 CFR §300.114, DCPS must provide OSEP with a written explanation of the steps the State has taken to: (1) review the justification for the public agency's actions; and (2) assist in planning and implementing any necessary corrective action, as required by 34 CFR §300.120.

2. With its FFY 2006 APR, due February 1, 2008, DCPS must provide to OSEP, any monitoring report(s) issued since February 1, 2007, that include the State's findings as to whether educational placement decisions were made consistent with the least restrictive environment provisions of the IDEA at 34 CFR §§300.114 through 300.120. DCPS must provide the number of findings of noncompliance related to these requirements made in the monitoring reports, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by the State to ensure the corrective actions are being implemented and the noncompliance will be corrected within one year of identification.
3. For the second progress report, due June 1, 2008, DCPS must provide documentation it is carrying out the technical assistance, training, and monitoring activities described in its first FFY 2007 Special Conditions Progress Report.
4. With its second progress report, DCPS must provide OSEP any monitoring report(s) issued since February 1, 2008 that include the State's findings as to whether the educational placement decisions were made consistent with the least restrictive environment provisions of the IDEA at 34 CFR §§300.114 through 300.120. DCPS must also provide an update on the number of findings of noncompliance related to these requirements made in the monitoring reports issued since February 1, 2007, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure those corrective actions are being implemented and the noncompliance will be corrected within one year of identification.

D. Identify and Correct Noncompliance

1. In the first progress report, as part of its response to Indicator 15 in the FFY 2006 APR, due February 1, 2008, DCPS must provide an updated description of the components included in the State's system of general supervision. This includes a written explanation of how the State uses these components, (such as on-site visits, dispute resolution processes, data collection, etc.) to monitor implementation of IDEA requirements by the State's local educational agencies.
2. With its FFY 2006 APR, due February 1, 2008, DCPS must provide data that include the number of findings of noncompliance identified in the State's monitoring reports, issued between December 2005 and February 1, 2007, and the number of corrections the State has verified were completed as soon as possible but in no case later than one year from identification. For any findings of noncompliance identified in the monitoring reports that were not corrected within one year of the date of identification, DCPS must provide a description of the

actions that the State has taken, including enforcement actions, to ensure correction of the finding(s).

3. With its FFY 2006 APR, due February 1, 2008, DCPS must provide to OSEP all monitoring reports issued since February 1, 2007. DCPS must report the number of findings of noncompliance made in those monitoring reports, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure those corrective actions are being implemented and the noncompliance will be corrected within one year of identification.
4. For the second progress report, due June 1, 2008, DCPS must provide updated information on the data provided in the State's response to Indicator 15 in the FFY 2006 APR on the number and percent of findings of noncompliance identified in the State's monitoring reports issued between December 2005 and February 1, 2007 that have been corrected since the February 1, 2008 FFY 2007 Special Conditions Progress Report. For any findings of noncompliance identified in the monitoring reports that were not corrected within one year, DCPS must provide a description of the actions that the State has taken, including enforcement actions, to ensure correction of the finding(s).
5. DCPS must provide to OSEP any monitoring report(s) issued since the February 1, 2008 FFY 2007 Special Conditions Progress Report. DCPS must report the number of findings of noncompliance made in those monitoring reports, the corrective actions imposed, the number and percent of those findings that have been corrected, and the status of any remaining corrective actions, including any actions undertaken by DCPS to ensure those corrective actions are being implemented and the noncompliance will be corrected within one year of identification.

3. Evidence Necessary for Conditions To Be Removed

The Department will remove these Special Conditions if, at any time prior to the expiration of the grant year, DCPS provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require DCPS to submit data demonstrating compliance with each of the requirements related to: the timely provision of initial evaluations and placements and reevaluations; timely implementation of due process hearing decisions; ensuring placement of children with disabilities in the least restrictive environment; and identification and correction of noncompliance.

4. Method of Requesting Reconsideration

The State can write to Patricia J. Guard if it wishes the Department to reconsider any aspect of these Special Conditions. The request must describe in detail the changes to the Special Conditions sought by the State and the reasons for those requested changes.

5. **Submission of Reports**

DCPS must submit all reports required under the Special Conditions. These reports should be submitted to:

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U.S. Department of Education
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