

**Enclosure D**  
**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 Ohio's Federal Fiscal Year (FFY) 2007 grant award under Part B of the Individuals with Disabilities Education Act (Part B), related to an area of noncompliance that OSEP first identified in its March 30, 2001 Ohio Monitoring Report (Report) for which the State has failed to date to demonstrate compliance. Specifically, the State has failed to ensure that a free appropriate public education (FAPE) is made available to each child with a disability entering the Part B program from the Part C program by the child's third birthday, including ensuring that an individualized education program (IEP) or, if appropriate, an individualized family service plan (IFSP), has been developed and is being implemented by the child's third birthday, as required by 34 CFR §300.124(b) and 20 U.S.C. 1412(a)(9).

The State's FFY 2005 and FFY 2006 Part B grant awards were made subject to Special Conditions related to this issue. The FFY 2005 and FFY 2006 grant award Special Conditions contain a more complete history of the State's efforts to achieve compliance between March 30, 2001 and May 31, 2006. While the State has made significant progress in addressing this issue, it has not yet demonstrated substantial compliance with 34 CFR §300.124(b) and 20 U.S.C. 1412(a)(9). Therefore, OSEP is imposing Special Conditions on the State's FFY 2007 grant award. Under the FFY 2006 Special Conditions, Ohio was required to submit data on identified noncompliance, and its action to prevent noncompliance, including enforcement actions. The State submitted statewide data in its June 1, 2007 progress report indicating that:

1. For the period July 1, 2004 to June 30, 2005, the State reported that it reviewed all 615 districts' 2004-2005 records through onsite data verification visits. The number and percent of districts that had corrections verified and those not in compliance for 2004-2005 as of December 2006 were: 284 districts (46%) were compliant; 168 districts (27%) were 'in continuous improvement'; and 164 districts (27%) were noncompliant. The State also reported that noncompliant districts were directed to obtain technical assistance from the Special Education Regional Resource Center (SERRC); required to work with the SERRC to review the interagency agreement with Part C partners and develop a corrective action plan; or required to participate in a meeting with the ODE and Ohio Department of Health (ODH) consultants to evaluate interagency agreements, identify effective strategies for transition, and develop a corrective action plan.

2. For the period July 1, 2005 to June 30, 2006, the State reported that it reviewed all 615 districts' 2005-2006 records through onsite data verification visits. The number and percent of districts that had corrections verified and those not in compliance for 2005-2006 as of December 2006 were: 354 districts (58%) were compliant – a 54% increase over the number of districts in compliance for 2004-2005; 122 districts (20%) were 'in continuous improvement'; and 99 districts (16%) were noncompliant. Noncompliant districts were directed to obtain technical assistance from the SERRC; required to work

with the SERRC to review the interagency agreement with Part C partners and develop a corrective action plan; or required to participate in a meeting with the ODE and ODH consultants to evaluate interagency agreements, identify effective strategies for transition, and develop a corrective action plan. The State reported that as of December 2006, 74% of the three-year-olds transitioning from Part C to Part B had IEPs in place by the third birthday.

3. For the period January 1, 2007 through April 30, 2007, the State reported that it monitored 109 local entities, and described the actions that the State is taking to prevent noncompliance. Ohio reported that the selection of districts for the spring 2007 review was based upon the percent of IEPs not completed within the required timelines. Data verifications that were conducted between January 1, 2007 and April 30, 2007, focused on districts with potential systemic issues. Selection was based upon noncompliance for the previous two years indicating a potential systemic issue. Systemic issues that warranted a review in the spring of 2007 included (a) districts with less than 75% compliance in both 2004-2005 and 2005-2006 (b) districts with less than 75% compliance in 2005-2006 and less than 100% in 2004-2005; and (c) districts with fewer than 5 children transitioning and less than half the IEPs completed on time. The State reported that of the 109 districts selected for onsite reviews between January and April 2007, 100 increased the number of IEPs completed on time; the number and percent of districts that had corrections verified and those not in compliance were: 68 districts (62%) were compliant; 19 districts (18%) were in continuous improvement; and 11 districts (11%) were noncompliant. Finally, the State reported that as of April 2007, the 109 districts selected for review had 91% of the IEPs completed on time (763 children out of 837 children transitioning).

The State's data for January 1, 2007 through April 30, 2007 show significant improvement in the number of children with IEPs that are completed by the child's third birthday. However, the State has not yet demonstrated substantial compliance with the regulatory and statutory requirements that for children transitioning from Part C to Part B an IEP has been developed and is being implemented by the child's third birthday. 34 CFR §300.124(b) and 20 U.S.C. 1412(a)(9).

## 2. Nature of the Special Conditions

Pursuant to the Special Conditions, the State must provide two Progress Reports, the first due with the FFY 2006 APR that it will submit by February 1, 2008, and the second by June 1, 2008.

ODE must submit the following information in each of the data submissions:

1. A. The number of Part B eligible children who transitioned from Part C to Part B from July 1, 2007 to the reporting date.  
B. Of those children, the number and percentage who had an IEP developed and implemented by their third birthday.
2. For the districts that were reviewed between January 1, 2007 and April 30, 2007:

- A. The number that are in compliance by the reporting date.
- B. For each district in the remainder (2 minus 2.A), a description of the specific enforcement actions that the State has taken to ensure compliance with the requirements of 34 CFR §300.124(b) and 20 U.S.C. 1412(a)(9). The State also must describe the results of the State's analysis of factors that have contributed to any continuing noncompliance, and the strategies that the State has implemented to address those factors.

**3. Evidence Necessary for Conditions To Be Removed**

The Department will remove the Special Conditions if, at any time prior to the expiration of the grant year, Ohio provides documentation, satisfactory to the Department, that it is ensuring that eligible children with disabilities transitioning from the Part C program to the Part B program have an IEP, or, if appropriate, and IFSP, developed and implemented by the child's third birthday.

**4. Method of Requesting Reconsideration**

The State can write to the Office of Special Education Programs Acting Director, Patricia Guard, at the address below, 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**

All reports that are required to be submitted by Ohio to the Department under the Special Conditions should be submitted to:

U.S. Department of Education  
Office of Special Education and Rehabilitative Services  
Attn: Margaret Romer  
400 Maryland Ave., SW  
Washington, DC 20202-2550