

**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 Office of the State Superintendent's (DC OSSE) Federal Fiscal Year (FFY) 2008 grant awards under Part B of the Individuals with Disabilities Education Act (Part B). OSEP has significant concerns about the District of Columbia's failure to satisfy the Special Conditions placed on the State's FFY 2007 grant award under Part B. As a result during FFY 2008, OSEP is requiring more significant reporting, including requiring DC OSSE to provide more frequent progress reports, as well as a copy of each "Status Report," including attachments, filed by the State with the U.S District Court regarding the State's efforts to comply with the requirements of the Blackman-Jones Consent Decree, including implementation of the Backlog Reduction Plan. In addition, OSEP is requiring DC OSSE to access technical assistance that is designed to help the State improve its system of general supervision from the Data Accountability Center (DAC), an OSEP-funded technical assistance provider. In each of the three required progress reports, the State must include a description of the technical assistance the State accessed and the actions taken as a result of the technical assistance. OSEP is continuing the Special Conditions for FFY 2008 related to the State's failure to demonstrate compliance with the following requirements:

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.<sup>1</sup> See also, section 612(a)(7) of the IDEA.

According to data submitted by the DC OSSE under the FFY 2007 Special Conditions, the State has 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

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<sup>1</sup> 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 38-2561.02 of the D.C. Code states that the District of Columbia 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 3005.2 of Chapter 30 of Title 5 of the DC Municipal Regulations states: "The IEP team shall conduct an initial evaluation of a child within a reasonable time of receiving a written referral and parent consent to proceed and within timelines consistent with Federal law and DC Code Section 38-2501(a)." (DC Code Section 38-2501(a) has been repealed and D.C. Code Section 38-2561.02 now addresses timeliness of evaluations.) Section 3013.1(c) specifies: "The LEA shall ensure that the educational placement decision for a child with a disability is made within timelines consistent with applicable local and Federal law." Page five 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."

final reporting period for FFY 2007, 320 initial evaluations and placements had not been completed in a timely manner, with an average number of overdue days of 63.

	Initial Evaluations and Placements			
	FFY 2006 First Progress Report February 2007	FFY 2006 Final Progress Report June 2007	FFY 2007 First Progress Report February 2008	FFY 2007 Final Progress Report June 2008
Percent Completed Timely	47%	43%	42.7%	30.27%
Average Number of Overdue Days	112	53	69.79	63

Data provided by the State in the final FFY 2007 Special Conditions Progress Report demonstrate that the State is not making progress toward 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 (LEA) agree that a reevaluation is unnecessary.<sup>2</sup>

According to data submitted by the State under the FFY 2007 Special Conditions, the DC OSSE has 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 2007, 1,691 reevaluations had not been conducted in a timely manner, with an average number of overdue days of 75. Data provided by the State in the final FFY 2007 Special Conditions Progress Report demonstrate that the State is not making progress toward satisfying this Special Condition.

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<sup>2</sup>Section 614(a)(2) and 34 CFR §300.303 require that a reevaluation occur at least once every three years, unless the parents and the LEA agree that a reevaluation is unnecessary.

	Reevaluations			
	FFY 2006 First Progress Report February 2007	FFY 2006 Final Progress Report June 2007	FFY 2007 First Progress Report February 2008	FFY 2007 Final Progress Report June 2008
Percent Completed Timely	54%	41%	37.2%	23.17%
Average Number of Overdue Days	115	67	199.22	75

In the final FFY 2007 Special Conditions Progress Report, the State described the strategies being implemented to reduce the number of overdue evaluations and placements and reevaluations. The State provided documentation of steps being taken pursuant to the Blackman-Jones Consent Decree that specifically address noncompliance with meeting required timelines for initial evaluations and placements and reevaluations. These actions include implementation of a new Special Education Data System (SEDS) for tracking and monitoring timeliness of Individualized Education Programs and evaluations and reevaluations. The State reported as a barrier to progress, difficulties with the agency the State had contracted with to conduct “outside evaluations” and has had to discontinue making referrals to this agency due to the “high volume of current assessment referrals outstanding.” The State reported that it is searching to identify a new contractor to assist with referrals and to reduce the number of overdue evaluations.

Based upon the State’s demonstrated lack of progress and continued noncompliance with meeting timelines for initial evaluations and reevaluations, OSEP concludes the State did not satisfy this Special Condition.

2. Implement due process hearing decisions in a timely manner

Impartial 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 the State, as required by section 615(f) and (i) of Part B of the IDEA.

The State was unable to report data on the percentage of hearing officer determinations implemented in a timely manner at the end of the FFY 2006 reporting period. DC OSSE collected, reported, and analyzed data for the FFY 2007 Special Conditions reporting period.

The State reported that at the end of the final FFY 2007 Special Conditions reporting period, 1,263 hearing decisions had not been implemented in a timely manner. The State reported 16.1 percent of hearing officer determinations were implemented in a timely manner during the final FFY 2007 reporting period. These data represent an increase of

11.1 percent from the data that were reported in the State's first FFY 2007 Special Conditions Progress Report.

The DC OSSE provided a description of the strategies it is implementing, primarily through the Blackman-Jones Consent Decree, that are designed to reduce the number of children whose hearing officer determinations are not implemented in a timely manner. This includes the activities outlined in the Backlog Reduction Plan, (e.g., designated staff with responsibility for "analyzing the content of HODs [hearing officer determinations] and deciding how best to implement them with particular attention to timelines so that the appropriate personnel can be notified and the HOD implemented"). The State reported that under the Blackman-Jones Consent Decree, the State has developed a "database which tracks information on due process complaints, hearings, HODs, SAs [settlement agreements] and their implementation." The State described challenges in use of the database and steps being taken to address those challenges. The State further reported that "[b]y January 2009, the OSSE's Special Education Data System aims to have a legal module in place that will replicate and improve on the processes of HOD implementation tracking that are utilized in the Blackman-Jones database."

In the June 2, 2008 Special Conditions Progress Report, the State provided a description of the barriers to the timely implementation of hearing officer decisions and the steps being taken to remove those barriers. Based upon the State's FFY 2007 submissions, OSEP concludes that although the DC OSSE is attempting to address noncompliance related to the timely implementation of hearing officer determinations, 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.

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 LEAs 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.

OSEP collected data during its March 26, 2001 compliance monitoring review of the State, to determine whether the State 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 the State to serve children with disabilities along each

point of the continuum of alternative placements. OSEP found that the State was not ensuring that children with disabilities are placed in the least restrictive environment appropriate to their needs.

With the implementation of the State's monitoring system, OSEP required, in the FFY 2004 Special Conditions, that the State 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, the State provided no monitoring data or other documentation to OSEP to demonstrate students with disabilities were placed in the least restrictive environment consistent with the requirements.

OSEP continued to impose this Special Condition on the State's FFY 2005 and FFY 2006 IDEA Part B grant awards. During FFY 2005 and FFY 2006, the State was required to provide documentation to OSEP to demonstrate the State was meeting its responsibilities under section 612(a)(5)(A) of the IDEA and 34 CFR §§300.114 through 300.120 related to ensuring the education of students with disabilities in the least restrictive environment. OSEP required the State to provide copies of monitoring reports highlighting the State's findings as to whether educational placement decisions were made consistent with the IDEA's least restrictive environment provisions, and to report on corrective action plans and the State's follow-up activities carried out to ensure the correction of noncompliance related to implementation of these requirements. Based on the State's FFY 2005 and FFY 2006 Special Conditions Progress Reports, OSEP concluded the State had failed to provide sufficient information to demonstrate the State is fulfilling the responsibilities under 34 CFR §§300.114 through 300.120.

OSEP revised the activities under the Special Condition on the State's FFY 2007 grant award to require that the State provide a written explanation of how the State is meeting its responsibilities under 34 CFR §§300.119, 300.120, and 300.600 to ensure each LEA complies with the least restrictive environment provisions at 34 CFR §300.114. The State was also required to provide documentation that the State is carrying out the technical assistance, training, and monitoring activities necessary to meet its responsibilities. This included providing copies of monitoring reports issued between February 1, 2007 and May 15, 2008, reporting the number and percent of findings of noncompliance related to LRE requirements identified in the monitoring reports, the corrective actions imposed, the number and percent of findings of noncompliance that were corrected, and the status of any remaining corrective actions, including actions undertaken by the State to ensure corrective actions were implemented and the noncompliance corrected within one year of identification.

In the first FFY 2007 Special Conditions Progress Report, the DC OSSE stated it had conducted monitoring activities to review LEAs' compliance with the LRE requirements. The results of the monitoring activities, including 25 written monitoring reports, were submitted to OSEP as required. The State submitted monitoring reports for 21 charter school LEAs and four charter schools that are public schools of the DCPS, and copies of corrective action plans in effect to address findings of noncompliance. However, the State did not specify the number of findings of noncompliance related to the LRE requirements and OSEP is unable to determine whether the State made findings specific to the LRE requirements at 34 CFR §300.114. The State indicated that a documented

entitled “MDT Checklist” would be used to monitor an LEA’s compliance with the “MDT Guidelines” and that the results would be reported in “the 2007 reporting period.” The State provided the “MDT Notes Guidelines” document to OSEP but did not provide the “MDT Checklist.” In the June 2, 2008 Special Conditions Progress Report the State reported that because of the transition and restructuring in its Office of Monitoring and Compliance Division, “it is unclear that any steps were taken to ensure that the MDT guidelines created and distributed in 2007 were monitored.”

In the June 2, 2008 Special Conditions Progress Report, the DC OSSE described the steps being taken to restructure the State’s system of monitoring. In that document, the State reported, “[t]he Office of Monitoring and Compliance is currently working towards a system of ensuring placement in the least restrictive environment, but currently can not provide any monitoring reports in this area.”

The State has demonstrated long-standing noncompliance related to ensuring the education of students with disabilities in the least restrictive environment consistent with federal requirements. It is unclear to OSEP, based on our review of the State’s monitoring reports submitted with the first FFY 2007 Special Conditions Progress Report, whether the State’s monitoring activities ensure educational placement decisions are made consistent with the least restrictive environment requirements in 34 CFR §300.114. OSEP concludes the DC OSSE has not provided sufficient information to demonstrate that the State monitors LEAs 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 therefore, has not met this Special Condition.

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 LEAs. 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 the State 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 the State’s 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 the State continued to demonstrate noncompliance with these requirements, the Department imposed Special Conditions on the State’s FFY 2005 grant award under Part B and continued the Special Conditions on the State’s FFY 2006 grant award.

Under the FFY 2005 and FFY 2006 Special Conditions, OSEP required the State to submit any monitoring reports issued and documentation of any corrective actions imposed, activities undertaken by the State to ensure corrective actions were

implemented and that the noncompliance was corrected within one year of identification. The State was also required to report the number of findings of noncompliance identified in the State's monitoring reports, the corrective actions imposed, the number and percent of findings of noncompliance that were corrected, and the status of any remaining corrective actions, including actions undertaken by the State to ensure corrective actions were implemented and the noncompliance was corrected within one year of identification.

Because the State's submissions to OSEP during the FFY 2005 and FFY 2006 Special Conditions reporting periods did not provide sufficient information to demonstrate that it identifies and corrects noncompliance in accordance with the requirements in section 612(a)(11) and 616(a) of the IDEA, 20 U.S.C. 1232d(b)(3), and 34 CFR §§300.149 and 300.600, OSEP concluded that the State had not met this Special Condition.

Under the FFY 2007 Special Conditions, the State was required to provide as part of its response to Indicator 15 in the FFY 2006 APR, an updated description of the components included in the State's system of general supervision and how the State uses these components to monitor implementation of IDEA. The State was also required to report the number of findings of noncompliance identified in the State's monitoring reports issued between December 2005 and May 15, 2008, the number of corrections the State verified were completed as soon as possible but in no case later than one year from identification, and a description of actions the State had taken, including enforcement actions, to ensure correction of noncompliance. In addition, the State was required to submit any monitoring reports issued between February 1, 2007 and May 15, 2008.

OSEP notes that the State has reported inconsistent information regarding the identification and correction of noncompliance, including data reported in the State's Special Conditions progress reports and the FFY 2005 and FFY 2006 APRs. For example, the State has provided inconsistent data related to the number of findings of noncompliance identified in FFY 2005 and the number and percent of findings of noncompliance the State determined were corrected. In the FFY 2006 APR, the State reported that none of the findings of noncompliance identified in the "2005-2006 monitoring reports" were corrected within one year of identification and has indicated that prior reports indicating some correction had occurred were inaccurate. It is OSEP's assumption that the FFY 2006 APR data of 0% replace the data previously submitted by the State. As another example of inconsistent information, the DC OSSE stated in the June 2, 2008 Special Conditions Progress Report that the "DCPS Elementary Division did not submit a CAP [corrective action plan] based on the monitoring done during the 05/06 school year." However, with its February 1, 2007 Special Conditions Progress Report, the State provided OSEP with a copy of a CAP for the Elementary Division, dated October 11, 2006.<sup>3</sup>

The State did not provide the updated description of its system of general supervision in the FFY 2006 APR as required but did provide information in the June 2, 2008 Special Conditions Progress Report stating:

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<sup>3</sup> OSEP staff provided the DC OSSE Director of Monitoring with a copy of this document on June 22, 2008.

The OSSE has undergone a major restructuring in its Office of Monitoring and Compliance division since the last Special Conditions Progress Report, including the acquisition of a new Director of Monitoring and Compliance (starting date April 14, 2008) as well as a new Director of Technical Assistance (starting date May 26, 2008)....As a result of this change in staff and integration with the Special Education Reform Team, the OSSE Office of Special Education is in the process of developing a robust and dynamic monitoring system that will be implemented in the fall of 2008.

The DC OSSE stated that its goal is to have a structured system in place to implement a “tiered approach to monitoring intervention” by fall of 2008.

In the June 2, 2008 Special Conditions Progress Report, the State reported follow up activities are being conducted with 19 schools monitored during the 2006-2007 school year and two schools monitored during the 2005-2006 school year. The State indicated it is unable to provide an analysis of the number and percent of findings of noncompliance identified as required under the FFY 2007 Special Conditions. The DC OSSE reported that “one of the ongoing goals of the Office of Monitoring and Compliance is to create a better way of tracking non-compliance which will allow this data to be reported in the future.”

The DC OSSE indicated in the first FFY 2007 Special Conditions Progress Report that the State has established a system of sanctions and enforcement actions when LEAs do not timely correct noncompliance. However, the State has not provided evidence the DC OSSE has implemented those measures when following up on the uncorrected noncompliance identified in FFY 2005 (i.e., monitoring reports issued for the DCPS High School and DCPS Middle/Junior High School Divisions).

The development and implementation of a general supervision system that is capable of monitoring the implementation and enforcement of Part B of the IDEA is one of the State’s most critical functions under the IDEA. Based on the DC OSSE’s submissions during FFY 2007 (i.e., the FFY 2006 APR and FFY 2007 Special Conditions Progress Reports), OSEP concludes the State has not demonstrated it has a general supervision system that can effectively identify and correct noncompliance and therefore, has not satisfied this Special Condition.

**2. Nature of the Special Conditions**

The State must, pursuant to these Special Conditions, provide three progress reports. Each report must be submitted to OSEP in accordance with the reporting periods and timelines specified below:

	Progress Report Due Date	Reporting Period
First Progress Report	October 15, 2008	May 16, 2008 – September 16, 2008
Second Progress Report	January 15, 2009	September 17, 2008 – December 17, 2008



Third Progress Report	May 15, 2009	December 18, 2008 – April 18, 2009
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The State must also submit its FFY 2007 Annual Performance Report (APR) to OSEP, due February 1, 2009.

In addition, the State shall provide to OSEP, a copy of each “Status Report,” including attachments, filed by the State with the U.S District Court reporting on the State’s efforts to comply with the requirements of the Blackman-Jones Consent Decree, including implementation of the Backlog Reduction Plan. The State must provide this information to OSEP within two weeks from the date the report is filed with the Court and/or the plaintiffs. When reporting on efforts toward meeting the requirements related to the four Special Conditions identified below, the State may reference in the Special Conditions progress reports, the specific activities, strategies, and interventions being implemented pursuant to the Blackman-Jones Consent Decree, including the Backlog Reduction Plan, as appropriate.

A. Initial Evaluations and Reevaluations

In each of the three progress reports, the State 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;
- (e) The percent of timely initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period; and
- (f) The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue.

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;
- (e) The percent of timely triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell during the reporting period; and

- (f) The average number of days the reevaluations that had not been provided in a timely manner were overdue.
- 3. The State shall include in each progress report, updated information related to the State's process for collecting and reporting data on timely initial evaluations and placements and/or reevaluations through OSSE's Special Education Data System (SEDS).
- 4. The State 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 reevaluations, the State 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.

**B. Implementation of Due Process Hearing Decisions**

- 1. In each of the three progress reports, the State 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 the State;
  - (b) The number of children whose hearing officer determinations had not been implemented within the time frame established by the hearing officer or by the State (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. The State shall include in each progress report, updated information related to the State's process for collecting and reporting data on timely implementation of hearing officer determinations through the Blackman-Jones database and OSSE's Special Education Data System (SEDS).
- 3. In each of the three progress reports, the State 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 and the steps being taken to remove those barriers.

**C. Ensure Placement in the Least Restrictive Environment**

- 1. In the first progress report, due October 15, 2008, the State must clarify 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.

2. With the first progress report, due October 15, 2008, the DC OSSE shall provide an explanation of how it uses the “MDT Notes Guidelines” and “MDT Checklist” documents to support the State’s efforts to ensure compliance with 34 CFR §300.114. If these documents and processes are used to monitor LEAs compliance with the least restrictive environment provisions of the IDEA, the State shall report the results.
3. With the second and third progress reports, due January 15, 2009 and May 15, 2009 respectively, the DC OSSE must provide updated information, if applicable, about the State’s use of the “MDT Notes Guidelines” and “MDT Checklist” documents.
4. With the first progress report, due October 15, 2008, the DC OSSE must provide OSEP with copies of any monitoring report(s) issued since February 1, 2008 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 shall also provide the number of findings of noncompliance the State identified specifically related to implementation of the least restrictive environment provisions.
5. With the second and third progress reports, due January 15, 2009 and May 15, 2009 respectively, the DC OSSE shall submit copies of any monitoring reports issued during the appropriate Special Conditions reporting period (see schedule above) 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 and provide the number of findings of noncompliance the State identified specifically related to implementation of the least restrictive environment provisions.

D. Identify and Correct Noncompliance

1. The DC OSSE must access technical assistance that is designed to help the State improve its system of general supervision. Assistance is available to the State from the Data Accountability Center (DAC), an OSEP-funded technical assistance provider. In each of the three required progress reports, the State shall include a description of the technical assistance the State accessed and the actions taken as a result of the technical assistance. The State must request the technical assistance by contacting Dr. Joy Markowitz ([joymarkowitz@westat.com](mailto:joymarkowitz@westat.com), 301-315-5952) or Dr. Alan Coulter ([acoulter@lsuhsc.edu](mailto:acoulter@lsuhsc.edu), 504-920-9093).
2. In each of the three progress reports, the DC OSSE must describe the status of the State’s restructured Office of Monitoring and Compliance Division. The State shall include an update on the efforts to establish and implement the integrated monitoring process and tiered approach to monitoring intervention as described in the DC OSSE’s June 2, 2008 Special Conditions Progress Report.
3. In the first progress report, due October 15, 2008, the DC OSSE shall clarify the number of findings of noncompliance identified in FFY 2005 (July 1, 2005 through

June 30, 2006) included in the State's monitoring reports and the status of correction of these findings. In addition, the State must report on the status of correction of the 31 issues of noncompliance identified by the State through the IDEA complaint investigations in FFY 2005 that were reported on page 23 of the State's FFY 2005 APR.

4. With the first progress report, due October 15, 2008, the State must provide OSEP with copies of any monitoring reports issued since February 1, 2008. With the second and third progress reports, due January 15, 2009 and May 15, 2009 respectively, the State shall submit copies of any monitoring reports issued during the appropriate Special Conditions reporting period (see schedule above).
5. In the FFY 2007 APR, due February 1, 2009, in the State's response to Indicator 15, the State must:
  - (a) provide a revised description of the State's system of general supervision, including an overview of the State's process for selecting LEAs for monitoring. The State Performance Plan (SPP) must also be revised to reflect the State's newly restructured general supervision system that includes the integrated monitoring process and tiered approach to monitoring intervention described in the DC OSSE's June 2, 2008 Special Conditions Progress Report.
  - (b) provide information from the October 15, 2008 progress report and updated information on the status of correction of any outstanding noncompliance identified in FFY 2005, including the actions the State has taken to address the uncorrected noncompliance.
  - (c) report the number of findings of noncompliance identified through the components of the State's general supervision system (State monitoring and the dispute resolution system) in FFY 2006 (July 1, 2006 through June 30, 2007) and the number and percent of corrections completed as soon as possible but in no case later than one year from identification. For any findings of noncompliance not corrected within one year of identification, the State must include a description of the actions, including technical assistance and enforcement actions, taken to address the noncompliance and the status of correction.
  - (d) address all issues identified in OSEP's June 17, 2008 response to the State's FFY 2006 APR submission related to Indicator 15 and this Special Condition.
6. In the final progress report due May 15, 2009, the State must report the number of findings of noncompliance identified in FFY 2007 (July 1, 2007 through June 30, 2008), through the components of the State's general supervision system (State monitoring and the dispute resolution system) and the number and percent of corrections completed as soon as possible but in no case later than one year from identification. For any findings of noncompliance not corrected within one year of identification, the State must include a description of the actions, including technical assistance and enforcement actions, taken to address the noncompliance and the status of correction. The State shall also provide an update on the status of

correction of any outstanding noncompliance identified in FFY 2005 and FFY 2006 and the actions the State has taken to address the uncorrected noncompliance.

**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, the State provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above, which require the State 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 William W. Knudsen, Acting Director, Office of Special Education Programs, 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**

The State must submit all reports required under the Special Conditions. The District of Columbia State Superintendent or other authorized official of the DC OSSE shall certify the completeness and accuracy of each report. The progress reports should be submitted to:

Lisa Pagano  
U.S. Department of Education  
Office of Special Education and Rehabilitative Services  
550 12<sup>th</sup> Street, SW, Room 4174  
Washington, DC 20202

or by e-mail to: [lisa.pagano@ed.gov](mailto:lisa.pagano@ed.gov)