



**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS**

OCTOBER 15, 2008 SPECIAL CONDITIONS PROGRESS REPORT

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STATE SUPERINTENDENT OF EDUCATION

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I. Introduction

The Office of the State Superintendent of Education (OSSE), in compliance with the Office of Special Education Programs (OSEP) and its imposition of Special Conditions on the District of Columbia Office of the State Superintendent Federal Fiscal Year (FFY) 2008 grant awards under Part B of the Individuals with Disabilities Education Act (Part B), pursuant to its authority under 34 CFR §80.12, hereby presents a Progress Report as required.

This is the first Special Conditions Progress Report for FFY 2008, and it addresses all of the areas of non-compliance that the OSEP delineates. Data was gathered from a variety of sources, all of which are referenced throughout the document. The OSSE recognizes that the data presented is not yet perfectly accurate or reliable due to the lack of uniformity in collecting and gathering information from different Local Educational Agencies (LEAs).

II. Special Conditions

A. Initial Evaluations and Re-evaluations

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: **124**
 - Previous Report Untimely = **320**
 - Late data entry adjustment = **196**
 - New Untimely = **124**
- (b) The number of children referred for initial evaluation and placement whose initial evaluation and placement became overdue during the reporting period: **424**
- (c) The number of children, from (a) and (b) above, who were provided initial evaluations and placements during the reporting period: **78**
 - 1. Old Late: **40**
 - 2. New Late: **38**
- (d) The number of children who had not been provided a timely initial evaluation and placement at the conclusion of the reporting period: **470**
 - 1. Old Late: **84**
 - 2. New Late: **386**

- (e) The percentage of timely initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period: **14.34%**
 - 1. New Due: **495**
 - 2. Timely: **71**
- (f) The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue: **153**

These data reflect a four month reporting period, including summer months, rather than the longer January 1 through May 15, 2008 school year period of the previous special conditions report. The current numbers show: a late data entry adjustment reducing by nearly two thirds those children whose initial evaluations and placements were previously reported as untimely; increases in the number of evaluations and placements becoming overdue; and fewer evaluations and placements provided. Although assessments and placement meetings are held during the summer, most are scheduled during the school year, so it is believed that this reporting period's falling largely during the summer vacation months contributed to the reduction of timely provision of initial evaluations and placements from **28.49%** to **14.34%**. Additionally, entry of data from the summer months typically carries over into the fall, after schools reopen, so it is anticipated the next special conditions report's late data entry adjustment will similarly reduce the number of children reported as not provided timely initial evaluations and placements. The District of Columbia did not meet the goal of eliminating overdue initial evaluation and placements between May 16 and September 16, 2008: a discussion of directly comparing this report with the prior report follows triennial evaluations data.

2. Reevaluations

- (a) The number of children who, as of the end of the previous reporting period (December 31, 2007), had not been provided a timely triennial re-evaluation: **871**
 - Previous Report Untimely = **1691**
 - Late data entry adjustment = **820**
 - New Untimely = **871**
- (b) The number of children whose triennial re-evaluation became overdue during the reporting period: **862**
- (c) The number of children, from (a) and (b) above, who had been provided triennial re-evaluations during the reporting period: **93**
 - 1. Old Late: **58**
 - 2. New Late: **35**
- (d) The number of children who had not been provided a timely triennial re-evaluation at the conclusion of the reporting period: **1640**
 - 1. Old Late: **813**
 - 2. New Late: **827**

- (e) The percentage of timely triennial re-evaluations provided to children with disabilities whose re-evaluation deadlines fell during the reporting period: **13.1%**
 - 1. New Due: **992**
 - 2. Timely: **130**
- (f) The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue: **31**

The percentage of timely triennial reevaluations dropped from **23.12%** to **13.1%** for this reporting period. The number of children who had not been provided a timely triennial reevaluation at the close of the reporting period remained relatively consistent. A late data entry adjustment reduced the number of children whose triennial reevaluations were previously reported as untimely by nearly one half. The factors related to this reporting period falling largely during summer months apply equally to reevaluations, and the late data entry adjustment for the next special conditions report is expected to show a similar reduction in untimely reevaluations. Nevertheless, the goal of eliminating untimely triennial reevaluations during the May 16 to September 16, 2008 special conditions reporting period was not met.

The District of Columbia's new Special Education Data System (SEDS) was piloted in May, 2008. During the ensuing months, the SEDS implementation team conducted more than one hundred user training sessions attended by DCPS and charter school representatives. All but two of the District's charter LEAs signed on to use SEDS and participated in the training. Participants completing training were able to use the SEDS pilot application. On August 15, ENCORE, the database previously used to collect initial evaluation, placement, and reevaluation timeliness data, was locked for further data entry. Existing ENCORE data was migrated to SEDS, data quality issues were identified for correction, and the amended data re-migrated. SEDS became operational and available for data entry on September 2, only six months after development began and just two weeks prior to the cutoff date for this special conditions report. Refresher training for users was simultaneously offered. The two charter LEAs maintaining their own databases will continue to report to OSSE as requested and their submissions will be reconciled with SEDS data elements.

Prior to the launch of SEDS, ENCORE data entered by DCPS were augmented by charter school data that were often recorded and submitted manually. Having a single database used by virtually all of the District's schools and LEAs will enhance the ongoing consistency of evaluation and reevaluation timeliness data. While the long-term benefits of SEDS cannot be questioned, preparing the current special conditions report so closely upon transitioning between separately functioning databases has revealed areas where previously and currently reported data may not agree. In preparing this special conditions report, the majority of data were drawn from ENCORE, with SEDS updates covering the period after mid-August through data entry in the two weeks between final system implementation and the reporting cut-off date. If there were any questions of the

accuracy, OSSE analysts erred on the side of caution, not reporting as timely any evaluations, placements, or reevaluations that might in fact have been late.

The OSSE now has both the challenge and the opportunity of ensuring the congruence of the data fields previously reported in ENCORE and currently captured by SEDS. OSSE personnel and consultants are currently reviewing rules used for migration of ENCORE data, while comparing and validating methods used to calculate timeliness from ENCORE and SEDS data. It must be established that each migrated ENCORE data entry has been followed up by appropriate later entries into SEDS: lack of subsequent data entry will be reported as untimely provision of service. Research is also ongoing to verify data integrity following multiple migrations. Additionally, more children are now being tracked by SEDS. Owing to their use of differing methods of data collection and record keeping, the complete and current data from charter schools necessary for previous special conditions reports have not been consistently available. Direct data entry into SEDS, which with its wide range of functions is a valuable tool for charter schools, has now enhanced the completeness of data reporting. Nevertheless, the OSSE has and is aggressively following up with LEAs to ensure compliance with necessary data reporting mandates.

The introduction of a new, more comprehensive and capable special education database is integral to the OSSE's efforts to guarantee timely initial evaluations, placements, and reevaluations. However, bringing a new application online is a certain way to reveal vulnerabilities and identify areas to target for improvement. The process of refining and clarifying SEDS data fields to calculate event timeliness is yet to be completed. The effects of the database transition on the apparent downward and inconsistent trends in timely performance shown in this report remain to be fully determined. These variables, coupled with the high percentage of summer vacation included in this reporting period, leave the OSSE temporarily unable to draw concrete conclusions regarding the progress of its ongoing efforts to reduce and eliminate untimely initial evaluations, placements, and reevaluations. At the time of this special conditions report, given the challenges in transitioning from the limitations of one data collection mechanism to a superior one, the data presented are the best the available. However, the OSSE reserves the right to update the currently submitted data at the time of the next special conditions report. At OSEP's discretion, the OSSE will provide updates on our ongoing efforts to resolve issues related to the implementation of SEDS.

3. State's process for collecting and reporting data on timely initial evaluations and placements and/or reevaluations through the OSSE's Special Education Data System

In May 2008, the OSSE's Office of the Chief Technology Officer implemented the Special Education Data System (SEDS) in pilot form. DCPS and all but two of the District's charter LEAs agreed to use the application. Ongoing training sessions were available for all LEA users and those completing the one-day course could immediately use the pilot version of SEDS. Within four months, SEDS became fully operational for

data entry following the migration of data from ENCORE, the previously used special education tracking system. Simultaneously, refresher training courses were offered.

Individual schools, whether part of DCPS or charter LEAs, are responsible for maintaining current and accurate data on their respective special education populations. For purposes of tracking timely initial evaluations, placements, and reevaluations, dates of referral, evaluation, IEP and placement, and reevaluation must be recorded. SEDS allows identification of services provided within State and Federal established timelines. Implementation of SEDS marked a significant change in special education data collection and reporting as it replaced not only ENCORE but the manual recording and submission of data used by some LEAs. The OSSE has budgeted resources to allow for any additional development SEDS may require to ensure all reporting calculations are made consistent with previous special conditions reports. To educate LEAs on the requirements of data reporting, the OSSE has followed up via email and individual telephone calls to schools offering technical assistance. Additionally, a master reporting calendar is under development to provide LEAs with advance notice of reporting deadlines and data elements collected.

4. Strategies being implemented to reduce the number of overdue evaluations and placements and/or re-evaluations and explanation for lack of progress

As a part of the development and implementation of the SEDS system, OSSE has taken great care to insure the system itself guides LEA staff through the appropriate process and timelines for evaluation and placement and revaluations of special education students. Each user has also been provided a comprehensive user guide that provides additional detailed guidance on these issues.

OSSE is also continuing to provide additional funding to DCPS, our largest LEA, to enhance resources available for the timely completion of evaluations and reevaluations. New strategies currently being implemented also include efforts to contract directly with nonpublic schools to provide additional evaluation capacity.

The OSSE in partnership with LEAs has identified a shortage of certain qualified providers as a significant barrier to timely evaluations and will continuing working closely with LEAs to improve performance in this area.

B. Implementation of Due Process Hearing Decisions

The data for this section of the report comes from Klemm Analysis Group, Inc., under the supervision of Dr. Rebecca Klemm, President and Owner. The District of Columbia has agreed to use the data provided by Dr. Klemm for purposes of reporting the implementation of HODs until the due process module of SEDS is fully developed and its

functionality and accuracy are confirmed. Dr. Klemm performs this analysis from the data gathered in the Blackman/Jones database.

1. Data collected from Dr. Rebecca Klemm on HOD Implementation

- (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: 757
- (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: 358
- (c) The number of children from (a) and (b) above whose hearing officer determinations were implemented during the reporting period: 289
- (d) The number of children whose hearing officer determinations had not been implemented in a timely manner at the conclusion of the reporting period: 826
- (e) The percent of hearing officer determinations that had been implemented in a timely manner during the reporting period: 24.04%

Compared to the June 2008 Special Conditions Progress report, the HOD implementation rate has increased significantly, due in large part to the Backlog Reduction Efforts that have now been in place for several months. Additionally, the volume of students with HODs declined significantly during this reporting period. This is significant because it indicates that LEAs are improving services and resolving more complaints prior to reaching a hearing officer determination. The number of children whose HODs had not been timely implemented as of the end of the previous report decreased by 272; those overdue during the reporting period decreased by 783; those implemented during the reporting period decreased by 618 (most likely due to the shorter reporting period which went from 6 months to 3 months); and those implemented in a timely manner by the conclusion of the reporting period decreased by 437 (again, most likely due to the shorter reporting period). The most significant change is an increase in 7.94% in the percentage of hearing officer determinations implemented in a timely manner during the reporting period. The OSSE expects that the timeliness percentage will continue to increase as the Backlog Reduction efforts continue and are further refined. Ongoing strategies to reduce the number of HODs are described below in more detail.

2. State's process for collecting and reporting data on timely implementation of hearing officer determinations through the Blackman/Jones database and SEDS

Currently, information on hearing officer determinations is entered into the Blackman/Jones database and implementation is tracked through use of this Internet

based tool. Since the last reporting period, at least one School Leader and Special Education Coordinator (or comparable staff person) at each school in each LEA have been granted access to the system. In addition, training was conducted on the Blackman/Jones database for school staff (both in DCPS and Charters) in early October.

Phase II planning for SEDS, which includes the legal module, is currently in process and is still expected to be completed by January 2009.

3. Strategies being implemented to reduce the number of children whose Hearing Officer Determinations (HODs) are not implemented in a timely manner, related barriers, and steps being taken to remove those barriers

A. State policy guidance on HOD implementation

The OSSE is in its final development phases of creating state policy and clear guidance regarding HOD implementation requirements.

These policies will include standards and outcome expectations that ensure that effective and timely services are delivered to special education students as required by federal law. The plan includes a clear series of steps to follow in the implementation of an HOD, clarification of accountability and responsibility, quality assurance and control mechanisms, revised closure protocols that accurately document that an HOD has been complied with fully, and other policy guidelines as deemed appropriate.

B. Staffing at the OSSE Office of Special Education

In addition to regular monitoring of all LEAs, the Office of Special Education will be hiring staff dedicated to monthly monitoring of the implementation of HODs. These individuals will also be responsible for providing technical assistance and will act as the compliance officers to ensure that LEAs are adhering to federal requirements for HOD implementation. Once the HOD implementation policy is finalized, this staff will ensure that LEAs are following the state guidelines and procedures. By adding this targeted monitoring and assistance, the OSSE believes that schools will be better able to understand their obligations under IDEA and compliance with HODs, thus increasing the timeliness percentage.

C. Case management program and expansion of program to handle HODs in nonpublic and charter schools

The Case management program at the OSSE started with a focus on children in DCPS schools, but the scope has now been expanded. Case managers are currently assisting with implementation of HODs for children attending nonpublic schools; additionally, some case managers have been assigned to children attending charter schools and are working to resolve outstanding HODs for those students.

C. Ensure Placement in the Least Restrictive Environment (LRE)

- 1. Activities undertaken to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities to comply with LRE requirements in accordance with 34 CFR § 300.114 and any technical assistance and training activities carried out to assist public agencies in this effort.**

The OSSE is committed to providing guidance to all LEAs on their federal responsibilities, especially in terms of the Least Restrictive Environment, and has started to do this through various efforts.

From August 4th to August 6th, 2008, the OSSE conducted a State Improvement Grant Training; topics included Positive Behavior Intervention Supports, literacy-related subjects, how Student Support Teams (SSTs) fit into a Response to Intervention (RTI) framework, as well as how RTI will help SSTs hone skills including differentiating instruction, data collection, and progress monitoring. Attendees included PBIS teams from 40+ schools, as well as school administrators. The OSSE has continued work on this focus area through collaboration with George Sagai, Wayne Sailor, and Knute Rotto who are national experts in the field. By the next reporting period, a further update on the progress of this work will be available.

On August 18, 2008, the OSSE hosted its first annual state-wide conference for all LEAs with a focus on serving students in the LRE which included participation from teachers, special education coordinators, and school leaders. More than 500 school leaders and staff attended this day long conference. The topics that were discussed in break-out sessions were the following:

- Reading Intervention for students with disabilities
- Differentiated Instruction
- SEDS presentation on Placement Review
- Data Analysis
- State Standards in Reading and Mathematics for students with disabilities
- Inclusion Practices for all students

On September 10th and 11th, the OSSE hosted Pete Wright for a Wrightslaw conference for the Office of Special Education staff which consisted of training on IDEA, specifically related to the regulations on IEPs, LRE, and state responsibilities. As part of the training, staff members received educational resources including: Wrightslaw Special Education, 2nd edition, Wrightslaw: From Emotions to Advocacy: The Special Education Survival Guide, and Wrightslaw: No Child Left Behind. These resources have been utilized by the Office of Special Education staff to ensure that technical assistance and guidance is consistent with the most current Special Education Law. Furthermore, a copy

of these resources will be available in the Technical Assistance Library that the OSSE is currently developing.

The OSSE has issued new state policy regarding changes in placement to more restrictive settings. On September 19th, the OSSE hosted a Placement Review Policy meeting for LEA charter school staff, who as of October 1, 2008, are responsible for contacting the OSSE when the IEP team believes that a child will need a change in placement to a more restrictive placement. As a result of this policy, which is supported through the use of SEDS, two charter schools have already advised the OSSE of its need for technical assistance in the placement of two children. To support this new placement review process, the OSSE hired a Director for a new unit called the Placement Oversight Unit who will start on October 20th, 2008. This Unit will work very closely with the Technical Assistance Unit to ensure that schools are complying with LRE requirements.

In addition to these conferences and changes in the Office of Special Education's organizational structure to support LEAs in complying with LRE, several members of the Office of Special Education communicate daily with LEA staff to help them understand the federal requirements.

Finally, the OSSE as a whole is committed to providing assistance to all LEAs; as a result, the State Superintendent will begin holding quarterly meetings with LEA leaders that discuss topics of interest, including Special Education.

2. Explanation of use of “MDT Notes and Guidelines” and “MDT Checklist”

The OSSE has decided not to use the documentation labeled “MDT Notes and Guidelines” and “MDT Checklist” in its monitoring process—which was created while SEA responsibilities resided with DCPS. The Office of Monitoring and Compliance has decided to use a different set of tools, mainly SEDS, to help track compliance with LRE requirements.

3. Updated information about the use of “MDT Notes and Guidelines” and “MDT Checklist” —Required only for Second and Third Progress Reports

4. Monitoring report(s) issued since February 1, 2008 and number of findings of noncompliance specifically related to LRE provisions

None have been filed since February 1, 2008. Instead, the OSSE has used this time to develop a strategic plan for improved monitoring and continuous improvement described under Section D) 2) of this report.

5. Monitoring report(s) issued during the reporting periods and number of findings of noncompliance specifically related to LRE provisions—required only for Second and Third Progress Reports

D. Identify and Correct Non-compliance

1. Description of the Technical Assistance accessed from the Data Accountability Center and steps taken as a result of technical assistance

The OSSE Office of Special Education has received a total of 16 hours of on site technical assistance from the Data Accountability Center (DAC) and the Mid-South Regional Resource Center (MSRRC). The OSSE will continue to work with DAC and MSRRC in the coming months and will continue to report on progress.

The actions taken as a result of technical assistance include:

- 1) Collaboration to develop a comprehensive action plan that facilitates improvement of compliance monitoring and general supervision
- 2) Draft of a new continuous improvement focused monitoring process model and operational manual
- 3) Development and/or revision of all pertinent forms, documents, and procedures
- 4) Development of a Part B SPP Indicator Data Accountability Matrix that provides global systems management and tracking
- 5) Design of a framework for an integrated SPP/APR calendar that aligns the required activities of LEAs with that of the state education agency
- 6) Development of a self assessment that focuses specifically on LRE and evaluation/re-evaluations
- 7) Review of other states monitoring processes
- 8) Project management plans that facilitate the design of three training/orientation modules for LEAs, which will be implemented as part of the deployment of the new focused monitoring process

2. Status of the Office of Monitoring and Compliance Division including efforts to establish and implement the integrated monitoring process and tiered approach to monitoring intervention

The Office of Monitoring and Compliance currently has six monitors and one staff assistant and is in the process of advertising to fill three vacant monitoring and compliance specialist positions. This will bring the unit up to a total of nine monitors, which includes the program certification specialist – who coordinates monitoring of the non-public agencies.

The Office of Monitoring and Compliance started its work with the development of a draft five year strategic plan (2009-2014), which includes a vision, mission, core values, and four long term strategic goals. Staff is developing the continuous improvement focused monitoring process and operational manual, LRE & Evaluation/re-evaluation self assessment, forms, templates, and support tools. Staff is also focused on the systematic deployment of the new monitoring process, scheduled to roll out in February 2009, which requires that LEAs receive a comprehensive orientation and training. Currently, three training modules are tentatively scheduled for January 2009. The OSSE continues to work with DAC and MSRRC to implement this monitoring process.

3. Number of findings of noncompliance identified in FFY 2005 and status of correction of 31 issues of noncompliance in FFY 2005

OSEP has identified that the OSSE has previously reported inconsistent information on findings of non-compliance. To remedy this, the Office of Special Education is working closely with the DAC to ensure that we have revised policies and procedures to monitor findings of noncompliance and report on these findings with more specificity. To begin this process, the OSSE has developed a report on findings which will be reviewed and revised in consultation with DAC to ensure consistency and a more effective method for conducting data analysis.

One inconsistency that was pointed out in the Special Conditions set by OSEP was that in the June 2, 2008 Special Conditions Progress Report, the OSSE reported that the “DCPS Elementary Division did not submit a CAP [corrective action plan]”; whereas, in the February 1, 2007 Special Conditions Progress Report, there was a copy of a CAP. This is, in fact, is an inconsistency with which the OSSE agrees. What the OSSE intended to convey in the June Progress Report was that there was no evidence of correction.

The OSSE is also working on establishing and communicating with the LEAs on sanctions and enforcement actions when they do not timely correct non-compliance. The first step in this process is providing LEA Determination letters with clear guidance.

In addition, the OSSE has developed a new two-step application for IDEA, Part B funds. This process will provide the OSSE with an opportunity to determine, before federal funds are awarded, whether a local educational agency has a plan that is likely to be successful in achieving program purposes, will spend federal funds on allowable costs, and meets relevant eligibility requirements. The application is specifically aligned to IDEA, Part B requirements, especially federal and state priority issues. Consistent with Special Conditions, it identifies areas where the LEA has to submit strategies for

complying with the areas of concern such as LRE, timely evaluations, and timely implementation of HODs.

Below is a summary of findings from 2004/2005 to 2006/2007:

During the FFY 2004 – 2005 reporting period, one LEA, DCPS Senior High School Division was monitored. During that monitoring period, there was no area of non-compliance was found.

During the FFY 2005 – 2006 reporting period, 9 LEAs were cited based on IDEA non-compliance. There were a total of 8 areas of non compliance throughout each of the 9 LEAs monitored. As a result, the Office of Monitoring and Compliance required implementation of the following action: technical assistance in the form of observation, a review of documents, interviews and/or telephone conferences. Of the 9 LEAs, 6 provided evidence of change demonstrating correction of non compliance and 3 did not submit evidence of change to demonstrate correction of non-compliance.

During FFY 2006 – 2007, the Office of Monitoring and Compliance reviewed 25 LEAs. A total of 3 Charter LEAs were found to be compliant demonstrating no IDEA violations. Conversely, 22 LEAs were identified as having non-compliance, as a result of which the Office of Monitoring and Compliance required implementation of the following actions: technical assistance in the form of observation, a review of documents, interviews and/or telephone conferences. Of those 22 LEAs, 19 demonstrated evidence of change and 3 did not provide evidence of change to demonstrate correction of non-compliance.

The Office of Monitoring and Compliance will issue determination letters to all LEA's on October 17, 2008. The 3 non compliant LEAs will be required to provide sufficient evidence that can be verified by the Office of Monitoring and Compliance by November 7, 2008. Each school has been advised that continuous non-compliance will result in further sanctions and enforcement actions.

4. Copies of any monitoring reports issued since February 1, 2008

No monitoring reports have been issued since February 1, 2008.

5. Response to Indicator 15—required for FFY 2007 APR

6. Number of findings of noncompliance identified in FFY 2007— required for Third Progress Report

III. Certification

This report reflects the OSSE's good faith efforts in reporting accurate and reliable data to the extent possible and was reviewed by several members of the OSSE to ensure a full

District of Columbia Office of the State Superintendent of Education

and comprehensive submission. The entire report can be found on the OSSE website at www.osse.dc.gov.

The District of Columbia Acting Assistant Superintendent of Special Education, Tameria Lewis, hereby certifies that this report is complete and appropriate for submission to the Office of Special Education Programs.